

CODIFIED ORDINANCES

OF

CARROLLTON, OHIO

Local legislation current through March 1, 2021
State legislation current through November 27, 2020

DISCLAIMER

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CERTIFICATION

We, William J. Stoneman, Mayor and Darla Tipton, Clerk-Treasurer of Carrollton, Ohio, pursuant to Ohio Revised Code 731.23 and 731.42, hereby certify that the general and permanent ordinances of the Village of Carrollton, 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 Carrollton, Ohio, 1987, as amended to March 1, 2021.

/s/ William J. Stoneman
Mayor

/s/ Darla Tipton
Clerk-Treasurer

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publication by
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CARROLLTON, OHIO

ROSTER OF OFFICIALS

(2021)

COUNCIL

Wilma L. Lambert, (President Pro-Tem)
Danny Locke
Brittany Tangler
Corey Yeager
Christopher Barto
Thomas W. Parker

ADMINISTRATION

William J. Stoneman
Mark Wells
Darla Tipton
Clark E. Battista
Robert L. Ellington
Shane Thomas

Mayor
Village Administrator
Clerk/Treasurer
Village Solicitor
Police Chief
Fire Chief

The publisher
expresses his appreciation
to
JUDI A. NOBLE
Clerk-Treasurer
and
D. MARY ANN MILLER
Councilwoman
and all other Village officials
who gave their time and counsel
to this 1987 codification

ADOPTING ORDINANCE NO. 1987-17

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 Village of Carrollton, Ohio, has had the matter of codification and general revision of the ordinances before it for some time, and

WHEREAS, it has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such codification, and

WHEREAS, the codification of such ordinances, together with the new matter to be adopted, the matters to be amended and those to be repealed are before the Council,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 VILLAGE OF CARROLLTON, OHIO:

- 1.) That the ordinances of the Village of Carrollton, Ohio, of a general and permanent nature, as revised, codified, rearranged and consolidated into component codes, titles, chapters and sections are hereby approved, adopted and enacted as the Codified Ordinances of the Village of Carrollton, Ohio, 1987.

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 records of the Village of Carrollton, Ohio.

- 2.) That the provisions of this Ordinance, including all provisions of the Codified Ordinances, shall be in full force and effect as provided in Section 5 of this Ordinance. All ordinances and resolutions or parts thereof enacted prior to which are inconsistent with any provisions 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 provisions 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 provisions, 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 codification.

(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 18, 1987.

- 3.) That all legislation enacted subsequent to May 18, 1987, which amended, replaced or otherwise affected a material provision of those ordinances existing prior to May 18, 1987, shall be deemed to amend, replace or affect the analogous or comparable section of the Codified Ordinances as reflected in the Comparative Section Table of the same, or as otherwise indicated by the content or purpose of such subsequent legislation.

- 4.) That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of the Village, the reason for the necessity being that there exists an imperative need for the earliest publication and distribution of the Codified Ordinances to the officials and residents of the Village so as to facilitate administration and daily operation and avoid practical and legal entanglements.

- 5.) That this Ordinance shall become effective at the earliest date allowed by law.

Passed this 25 day of August, 1987.

Harold K. Laizure
Mayor

ATTEST:

Betty Davis
Clerk-Treasurer

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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.

COMPARATIVE SECTION TABLE

EDITOR'S NOTE: Source material for the Codified Ordinances of Carrollton was either ordinances or resolutions enacted by Council, or new matter ordained by the Adopting Ordinance. Sections of the Codified Ordinances without any history indicate that such sections contain new matter ordained by the Adopting Ordinance. In the following table, the disposition of all source material in the Carrollton Codified Ordinances is indicated.

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TABLES OF SPECIAL ORDINANCES OF CARROLLTON

EXPLANATION OF TABLES OF SPECIAL ORDINANCES

The Codified Ordinances of Carrollton cover all ordinances of a general and permanent nature. The provisions of such general and permanent ordinances are set forth in full in the Codified Ordinances.

References must be made frequently to many special ordinances - particularly those related to property, such as dedications, vacating of property, easements, purchase, sale, etc. In the following Tables A through I, all such ordinances are listed. These tables list ordinances chronologically by subject, and include both a citation to and a brief description of each ordinance.

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TABLE A - FRANCHISES

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39	10-11-21	To the Ohio Power Co. for lighting the streets, highways and other public places in the Village for 10 years.
102	12-28-31	To the Ohio Power Co. for lighting the streets, highways and other places in the Village for 5 years.
106		To the Ohio Power Co. for lighting the streets, highways and other public places in the Village for 10 years.
151	1-26-42	To the Natural Gas Co. of West Virginia, for natural gas service.
156		To the Ohio Power Co. for street lighting.
1952-10	12-8-52	To the Ohio Power Co. for street lighting.
1957-4	8-12-57	To the Ohio Power Co. for street lighting.
1958-7	9-22-58	To the Ohio Fuel Gas Co., for the right to lay lines, etc. for natural gas service.
1963-2	7-22-63	Fixing the rates of the Ohio Fuel Gas Co. for 4 years.
1965-7	9-27-65	To the Neptune Broadcasting Corp. the right to construct and operate a CATV system.
1967-3	9-25-67	To the Ohio Power Co. for street lighting.
1967-4	7-24-67	Fixing the price of natural gas from Columbia Gas of Ohio, Inc. for 4 years.
1967-7	11-13-61	To the Video Cable Corp., the right to construct and operate a CATV system.
1971-6	8-9-71	Fixing the price of natural gas from Columbia Gas of Ohio, Inc. for 4 years.
1974-8	9-24-74	Amends Ord. 1967-7.
1975-4	9-23-75	Fixes and regulates rates charged by Columbia Gas of Ohio, Inc. for four years.
1977-11	9-13-77	Grants General Telephone Company of Ohio right to install telephone and other communication services.
1977-21	12-27-77	Amends Ord. 1967-7 and 1974-8 relating to CATV system and rates.
1979-14	9-24-79	Fixes and regulates rates charged by Columbia Gas of Ohio, Inc. for thirteen months.
1982-12	1-24-83	Fixes and regulates rates charged by Columbia Gas of Ohio, Inc. for three years.
1983-11	7-11-83	Accepts proposal of Ohio Power Co. to light the streets of the Village.
1984-4	3-26-84	Amends Ordinance 1967-7 to extend right to operate a community antenna television system within the Village for an additional four years.
1985-18	1-13-86	Fixes price charged by Columbia Gas of Ohio, Inc. for gas until December 10, 1990.
1987-15	9-14-87	To the Ohio Power Company for street lighting.
1991-27	11-25-91	To TCI Cablevision of Ohio, Inc. for the construction and operation of a Cable System.
1993-07	5-24-93	To Ohio Power Company for lines to distribute electric energy.
1998-10	10-12-98	To Carroll Electric Cooperative Inc., for lines to distribute electric energy.
Res. 2001-13	4-23-01	Approves the transfer of the Cable Television franchise from TCI Cablevision of Ohio to Adelphia Communications Corp.
2005-12	8-8-05	Agreement with Adelphia Central Pennsylvania, LLC.

TABLE B - EASEMENTS

Ord. No. Date Description

Res. 4	4-19-10	To the Wheeling and Lake Erie RR Co. and the Western Union Telegraph Co. for the transfer of all poles and wires from the west to the east side of High St.
Res. 14	10-28-24	Agreement with the Wheeling and Lake Erie RR Co. for construction, maintenance and operation of pipes for conveyance of water to and from a reservoir.
28	8-17-14	To the Wheeling and Lake Erie RR Co., the right to construct, maintain and operate a track across Fifth St. N.W.
33	1-26-17	To the American Gas Co., the right to construct, maintain and operate mains, pipes, etc. for the conveyance of natural gas to and

through the Village.

- 48 3-10-25 To the Bergholz Telephone Co., the right to place apparatus for telephone service.
- Res. 86 10-16-39 Authorizes an easement from Harold Sayre for water drilling and development purposes.
- 119 4-30-37 Appropriation of rights of way and easements in Center Twp. for sewer purposes.
- 120 5-17-37 Authorizes agreement with the Wheeling and Lake Erie RR Co. for maintenance, etc. of an 8-inch pipeline under the right of way and main track of the Co.
- 121 5-17-37 Authorizes agreement with the Wheeling and Lake Erie RR Co. for maintenance, etc. of an 8-inch sanitary sewer under the right of way and main track of the Co.
- 122 6-20-37 Appropriating 5 easements over lands of Miller, Gotschall, Amos, Mills and McClave, for sewer purposes.
- 160 9-27-43 Authorizes agreement with the Wheeling and Lake Erie RR Co. covering the maintenance, etc. of an 18-inch storm sewer under the right of way of the Co.
- Res. 229 12-27-49 Right of way agreement with the Tennessee Gas Transmission Co.
- Res. 276-A 5-14-51 Right of way agreement with the Tennessee Gas Transmission Co.
- Res. 345 1-26-53 Permitting the Village to run an electric power line across the right of way and main tracks of the New York, Chicago and St. Louis RR.
- Res. 1956-403 2-27-56 Authorizes a right of way easement with the Tennessee Gas Transmission Co.
- 1957-7 12-9-57 Authorizes agreement with the New York, Chicago and St. Louis RR re the construction of three additional electric wires over the railroad at or near Stemples Crossing.
- 1958-7 9-22-58 To the Ohio Fuel Gas Co., the right to lay lines, etc. for natural gas service.
- Res. 1959-7 7-27-59 Accepting by plat and easement the southern portion of Ray Ave.
- Res. 1959-11 9-14-59 Granting easement to the Ohio Power Co. re Lots 14 and 15 Croxton Outlots and park lease on Vasbinder lands, Sec. 32, Twp. 14, Range 4, Center Twp.
- 1990-22 9-24-90 Appropriating property for permanent and construction easements for the purpose of installing a storm sewer.
- 2008-69 10-27-08 Authorizing the entering of an easement for sewer purposes over the property of Robert and Sharon A. McEntire located at 548 6th Street NW.
- 2008-70 10-27-08 Vacating the unused existing ten foot sewer easements as recorded in Lease Volume 25, Page 177 and Lease Volume 25, Page 180.
- 2009-60 8-24-09 Authorizes entering of an easement for sewer purposes with Carrollton Farmers Exchange Company (pt. of Lot 10, William Hardesty Heirs Addition).
- 2010-45 12-13-10 Authorizing the entering of an easement for water line purposes on the property owned by Carrollton Exempted Village School District.
- 2010-46 12-13-10 Authorizing the entering of an easement for water line purposes on the property owned by Bradley J. and Helen I. Lewis.
- 2010-47 12-13-10 Authorizes the entering of an easement for water line purposes on the property owned by Jobes.
- 2013-8 6-10-13 Authorizes entering a utility easement over 3.735 acres currently owned by Donald S. Warner and Robin R. Warner.
- 2013-9 6-10-13 Vacates utility easement over 3.735 acres currently owned by Donald S. Warner and Robin R. Warner.
- 2013-24 9-9-13 Approves the corrected dedication plat of Lakeshore Drive within the limits of the Village.
- 2014-09 3-24-14 Authorizes the entering of an easement for the garage encroachment of the Moody Avenue right of way.
- 2014-12 4-14-14 Authorizes the entering of a utility easement in the Village over property of Carroll Electric Co-op, Inc.
- 2015-39 9-14-15 Approves grant of easement and agreement with Carroll County Energy, LLC.
- 2015-40 9-14-15 Approves partial assignment of easement with Carroll County Energy, LLC.
- 2015-44 11-23-15 Approves easement for utility purposes with the Board of Commissioners of Carroll County.
- 2015-45 11-23-15 Approves easement for utility purposes with the Community Improvement Corporation of Carroll County.

TABLE C - VACATING OF STREETS AND ALLEYS

Ord. No. Date Description

- 3 Part of Second St. west of Lincoln Ave.
- 7 6-24-02 Certain alleys in Atkinson's Western Addition.
- 15 4-26-04 An alley between Lots 33 and 34 in Atkinson's and McCook's Addition.
- 23 4-6-11 Portion of N. Grant St. from the Wheeling and Lake Erie RR Co's track to a point west a distance of 232 ft.
- 24 11-25-11 First alley north of the Carrollton Novelty Works.
- 25 11-25-11 First alley south of Orchard St. in the Allen and Helfrich Addition.
- 30 12-28-14 A 10-foot strip east of N. High St. between Butler Ave. and an alley separating lands of W. Miller and C. Mitzel.
- 45 11-25-24 Alley between Lots 48, 50 and 52 of Atkinson's First Addition and Lot 22 in Atkinson's and McCook's Addition.
- 140 11-20-39 Alley between Lots 5 and 6 in Roudebush's and Johnson's Second Addition.
- 145 5-14-40 Part of the north side of Third St. N.E.
- Res. 298 10-8-51 Part of a 10-foot alley extending from Garfield Ave. in the northwest section of the Village.
- Res. 367-1954 2-24-54 Part of an alley west of Lincoln Ave., north of Main St., West
- Res. 368-1954 3-8-54 Part of an alley from the north side of Third St. owned by Lulu Miller, et al.
- 1955-1 2-14-55 Part of a 10-foot alley west of N. High St.
- 1960-5 5-23-60 An alley from Lincoln Ave. to Cellars Alley between Lots 25 and 26 in the Beautiful View Addition.
- 1960-10 10-24-60 Part of an alley from Moody Ave. to a 12-foot alley and between Lot 10 of the Moody Addition and Lot 1 of Coggin's Allotment.
- 1961-1 5-8-61 An alley known as part of Atkinson's Extension to Canal St.
- 1967-2 3-13-67 Part of Eighth St. N.W. in the Carroll Hts. First Allotment.
- 1968-3 6-24-68 An alley from Fifth St. N.W. to the crossing alley in the Mayfield Addition.
- 1968-5 8-26-68 An alley from Third St. S.E. to the crossing alley in Atkinson's First Addition.
- 1969-3 7-28-69 A 12-foot alley from Centennial Ave. south between Lots 18 (Part B) and 19 in the Stewart and Orr Addition.
- 1970-5 8-24-70 An alley from Fourth St. N.E. 154 feet across an alley immediately to the rear of Lots 28 and 29 in the Stewart and Orr Addition.
- 1970-6 12-14-70 An alley from Fourth St. N.E. to a 6.92 acre tract.
- 1970-7 12-14-70 An alley between the entire west side of Lot 32 and the east sides of Lots 33 through 35 of the Stewart and Orr Addition.
- 1970-8 12-28-70 An alley from Fourth St. S.E. to a 12-foot alley in the rear thereof.
- 1970-9 1 2-28-70 An alley from Fourth St. N.E. to an alley in the rear.
- 1973-8 9-10-73 Alley between Lots 74 through 80, the Beautiful View Addition.

1977-2	3-7-77	An unimproved street south of Lot 50 in Smythe's Allotment.
1980-13	10-27-80	An alley abutting Lots 10 through 13 of Sterling's Addition.
1988-27	10-17-88	An alley abutting Lots 11 and 13 and Lots 3 and 4 in H. C. George's Addition.
1989-07	5-22-89	Amending Ord. 1969-3 relating to the vacation of a certain alley in Stewart and Orr's Addition.
1990-12	8-13-90	Two alleys abutting property owned by Thorne.
1991-05	3-11-91	An alley abutting lots 19 and 17 in S. L. and F. M. Sterling's Addition to the Village.
Res.1991-09	3-25-91	An alley running easterly along the northern boundaries of Lots 49 and 32 from Canton Road to the easterly boundary of Lot 32.
1991-17	8-12-91	An alley beginning at Canton Rd. and running in an easterly direction and along the northern boundaries of Lots 49 to 32.
1992-13	8-24-92	An alley beginning at the northwest corner Lot No. 7, Moody Addition.
1992-15A	11-9-92	An alley at the southwest corner of Section 22, Township 14, Range 5.
1993-06	5-24-93	An alley beginning at Lincoln Ave. and running in a westerly direction and along the boundaries of Lot 68 and 69.
1993-11	7-26-93	A sixteen foot alley between Lots 4 and 5 in Hardesty Heirs Addition.
Res.1993-13	7-26-93	A sixty foot long, ten foot wide alley running parallel and along the north line of Lot 47.
Res.1993-17	7-26-93	An 180 foot long, ten foot wide alley that abuts the western boundary of Lot 1 of Robert's Third Addition.
1993-18	8-9-93	A sixty foot long, ten foot wide alley running parallel and along the north line of Lot 47.
1993-19	8-23-93	An 180 foot long, ten foot wide alley that abuts the western boundary of Lot 1 of Robert's Third Addition.
1993-26	12-27-93	Amends Ordinance 1992-13.
1997-14	8-25-97	A portion of a 10 foot wide alley running parallel and between Lots 73 and 75 for 132 feet in Roberts First Addition.
1997-18	10-13-97	A 12 foot wide alley running parallel and between Lot 3, 4 and 5 in Moody's Addition for a distance of 123.08 feet.
1999-15	9-27-99	A 12 foot wide and 198 foot long alley running north-south between Lots 9 and 6-B commencing at 7th St.
2000-11	1-24-00	The alley between Lots 9 and 4 commencing at 7th St.
2000-24	9-25-00	An alley being part of the northwest quarter of Section 31, Township 14, Range 5, located at Third St.
2001-08	3-26-01	An alley located in southeast quarter of Section 32, Township 14, Range 5 and being part of a 6.00 foot alley in Stewart and Orr's Addition.
2001-09	3-26-01	An alley located in the southeast quarter of Section 32, Township 14, Range 5 and being part of a 16.5 foot alley in William Croxton's Addition.
2001-46	12-27-01	The section of Abrahms Ave. between its intersection with Monroe Ave. and property owned by the North American Union of the Sisters of Our Lady of Charity.
2009-49	8-10-09	Portion of a 12' alley from its terminus approximately 34' southeasterly toward North High Street and abutted by lands of the Richard C. Hannon Trust.
2010-17	7-12-10	A portion of an unbuilt 12' alley running west from Lincoln Avenue NW south 62 degrees, 19 minutes, 30 seconds east for a distance of 142 feet terminating at a 15 foot unbuilt alley and abutted by the lands of Habitat for Humanity of Greater Stark and Carroll Counties, Inc.
2011-36	9-26-11	A 10 foot by 132 foot strip of ground running parallel and between Lots 41 and 43.
2017-27	7-10-17	Vacating a portion of an unimproved 10" alley running west to east from Stewart Avenue NE to the east side of Lot 27 in the Stewart and ORR Addition.
2018-17	6-25-18	Vacating a portion of an unimproved 14' alley running North to South from 3rd Street NE to an improved 10' alley.
2019-29	6-24-19	Vacating the unimproved portion of an alley in the Homestead Allotment.
2020-18	6-8-20	Portion of an unimproved alley running south to north from 5 th Street NW to an intersecting unnamed alley running parallel to 5 th Street NW.

TABLE D - DEDICATION AND PLAT APPROVAL

Ord. No.	Date	Description
Res. 1	4-26-04	Dedication of an alley immediately south of Lots 5 and 6 in Hardesty's Second Addition.
Res. 3	1-10-10	Dedication of streets and alleys in Joseph C. Butler's First Addition.
Res. 6	5-26-11	Dedication of Second St., N.W.
Res. 7	8-17-15	Plat of Oak Hill Addition.
Res. 8	11-24-16	Dedication of the alley in the Roudebush and Johnson Second Addition.
8	9-22-02	Dedication of a public alley in Atkinson's Western Addition.
9	2-26-03	Dedication of streets and alleys in S.L. and F.M. Sterling's First Addition.
Res. 9	2-26-03	Plat of Saltsman and Richards extension of Fourth St. N.E.
10	6-9-03	Dedication of streets and alleys in the Mayfield Addition.
11	7-14-03	Dedication of streets and alleys in the Beautiful View Addition.
12	1-12-04	Dedication of streets and alleys in the Allen and Halfrich Addition.
13	1-12-04	Dedication of streets and alleys in the Getzman Addition.
14	3-8-04	Dedication of alleys in the Fred W. McCoy Addition.
16	7-20-04	Dedication of streets and alleys in the Raley Addition.
18	12-6-07	Dedication of Lee St. in the Beautiful View Addition.
27	12-27-12	Plat of the Orchard Hill Addition.
29	12-29-14	Dedication of streets and alleys in the Stewart and Orr Addition.
41	3-16-23	Dedication of all streets in the Charmatz Addition.
Res. 324	4-14-52	Dedication of part of Outlot 4 and entire Outlot 15, Elizabeth Croxton's First Addition, part of Outlot 4 and entire Outlots 14 and 2, Elizabeth Croxton's Outlots, for park and recreational purposes.
1950-4	10-12-50	Approving the Cope Allotment.
1957-6	12-9-57	Approving Carroll Heights Allotment No. 1.
Res.1959-7	7-27-59	Accepting by plat and easement the southern portion of Ray Ave.
1964-2	5-25-64	Approving the Westwood Manor Allotment.
1986-10	10-27-86	Dedication of the extension of Ray Avenue as evidenced by the plat presented by Ray McAfee.
1986-15	11-24-86	Dedication of certain streets in Northview Subdivision by Wilmer Best.
1989-18	8-14-89	Dedication of a portion of Courtview Drive.
1989-19	9-25-89	A .607 acre tract in the southeast quarter of Section Two of Center Township.
1993-27	1-24-94	Accepts Courtview Drive, Windamere Drive, Fair Way Dr. and Meadowbrook Lane of Courtview Ridge Development.
1994-18	11-28-94	Accepts the streets Meadowbrook Lane and Fairway Drive in the Carroll Meadows Subdivision.

Res.1995-03 4-10-95 Accepts the final plat of Courtview Ridge Subdivision, Phase II.
 Res.1997-04 3-24-97 Accepts the final plat of Countryside Estates Subdivision.
 Res.2004-17 9-13-04 Accepts the final plat of Courtview Ridge Subdivision Phase II and Countryside Estates.
 2006-11 6-12-06 Accepts the final plat of the subdivision known as Courtview Ridge Phase III.
 2006-12 6-12-06 Accepts the final plat of the subdivision known as Carroll Meadows Phase II.
 2006-13 6-12-06 Accepts the final plat of the subdivision known as Countryside Estates Phase II.
 2006-14 6-12-06 Accepts the final plat of the subdivision known as Courtview Ridge Phase IV.
 2006-24 9-25-06 Accepts the streets Countryside Drive, Edgewood Circle and Lake Drive in the subdivision known as Countryside Estates.
 2006-25 9-25-06 Accepts the street Wedgewood Lane in the subdivision known as Carroll Meadows Phase II.
 2006-26 9-25-06 Accepts the streets Courtview Drive, Woodridge Drive, Foxbury Drive, Deer Haven Drive, Sunnyview Drive and Woodside Drive in the subdivision known as Courtview Ridge.
 2007-28 8-13-07 Accepts and dedicates for public use Crest St.
 2008-04 2-25-08 Approving the subdivision of certain property currently owned by DKR Carrollton LLC, an Ohio Limited Liability Company.
 2008-27 6-9-08 Approving the subdivision of certain 7.962 acre property currently owned by Victoria Ann Tolardo.
 2009-2 2-9-09 Approving the subdivision of certain property currently owned by Gary and Mary Lou Minor.
 2010-42 11-22-10 Accepts the plat of Lakeshore Drive and dedication of same.
 2011-37 10-24-11 Approves the subdivision being a part of the residue of a 36.451 are tract currently owned by Countryside Estates, Ltd.
 2011-39 10-24-11 Approves the subdivision being a part of Lot 1 in Atkinson's Northern Addition currently owned by Rosebud Mining.
 2012-15 6-11-12 Approves the subdivision of certain property currently owned by Patricia A. Fluharty and modifying Lots 41 and 43 in the original plat of Centerville, nka Carrollton, Ohio.
 2013-2 2-11-13 Approves the subdivision of 26.8532 acres currently owned by Alan Walter.
 2013-21 6-27-13 Approves subdivision of certain property currently owned by Mary Lou McClelland (26.916 acres) into tract of 2.990 acres; residue tract of 23.926 acres remains unaffected.
 2020-41 10-12-20 Approves subdivision of certain property currently owned by Chaela Enterprises, LLC, being a 17.000 acre tract [Parcel No. 10-0001779.000], into two tracts comprising 5.115 acres and 11.885 acres.

TABLE E - ACQUISITION AND DISPOSAL OF REAL PROPERTY

Ord. No. Date Description

1 ? Authorizes sale of the west half of Lot 32 in Atkinson's First Addition to Centerville (now Carrollton) and fronting on Canal St.
 Res. 2 5-14-07 Authorizes purchase of land from Eli Kintner for dumping ground.
 6 10-11-1898 Authorizes sale of part of Sec. 31 in Twp. 14 of Range 5, in the Steubenville Land District.
 Res. 87 11-20-39 Accepting a street from the Board of Trustees of Center Twp. adjacent to Westview Cemetery.
 107 3-26-34 Authorizes sale of Tracts 1, 2 and 5 in McFadden's Allotment.
 113A 6-22-36 Authorizes sale of Lot 14 in Elson's and Leslie's Addition.
 130 9-6-38 Authorizes sale of Lot 9 in Elizabeth Croxton's First Addition and part of Lot 4 in Elizabeth Croxton's Second Addition Outlots.
 133 5-15-39 Authorizes sale of the Lewis Taylor Farm in Center Twp., less parts needed for Municipal purposes.
 135 8-10-39 Authorizes sale of the Lewis Taylor Farm in Center Twp., less parts needed for Municipal purposes.
 Res.280 5-21-51 Accepting a deed for a strip of land 40 feet wide extending from Swift Ave. N.W. to Wilson Ave. N.W.
 Res.303 11-12-51 Accepting deed for Outlot 15 in Elizabeth Croxton's First Addition for park purposes.
 1952-5 6-23-52 Authorizes sale of house and land of 1 acre located in Sec. 33, Twp. 14, Range 5 of Center Twp.
 Res.405 4-9-56 Accepting a deed for mineral reservations underlying the Village Reservoir.
 Res.1958-7 4-28-58 Accepting a 20-foot addition to the width of Monroe St.
 1960-1 2-23-60 Authorizes sale of a 150-ft. strip in the northeast corner of the Village Park System lands.
 Res.1960-4 1-27-60 Authorizes sale of part of the southeast quarter of Sec. 34, Twp. 14 North, Range 5 West, of the Ohio River Survey to the Ohio Power Co.
 Res.1960-8 5-12-60 Accepting bid for sale of a 150-foot strip in the northeast corner of the Village Park System lands.
 1960-8 7-11-60 Accepting part of the southeast quarter of Sec. 34, Twp. 14 North, Range 5 West, of the Ohio River Survey for park purposes.
 1962-4 9-24-62 Authorizes sales of 29.8 acres of the Village Park System.
 1965-4 8-9-65 Authorizes sale of part of the west half of the southwest quarter of Sec. 31, Twp. 14, Range 5.
 1977-24 12-13-77 Conveyance of approximately 50 acres in Sections 13 and 14, Township 14, Range 5, Center Township to the Consolidation Coal Co. in exchange for a deed of similar acreage.
 1983-8 5-23-83 Authorizes purchase of Lot 20 in Peter Bohart's Original Plat of Centerville, now Carrollton, Ohio.
 1988-06 3-14-88 Authorizes conveyance of 2.037 acre tract of land being a part of the southeast quarter of Section 34, Township 14, Range 5 from the Village of the Carrollton Exempted Village Board of Education.
 1988-07 3-14-88 Authorizes conveyance of 0.665 acre tract of land being a part of the southeast quarter of Section 34, Township 14, Range 5 from the Village to the Carroll County Vets Club, Inc.
 1988-17 5-23-88 Purchase of 112 W. Main St. for \$31,650.
 1989-17 8-9-89 Authorizes an agreement with the Board of County Commissioners to transfer the Village landfill.
 2000-05 2-28-00 Narrows 7th St. right of way from sixty-six feet to 46 feet.
 Res.2000-17 5-8-00 Authorizes the acquisition and exchange of real estate necessary to resolve encroachment and right of way issues relative to seventh St. and the Park Ave. extension.
 2008-7 3-10-08 Accepting a donation of land from Puskarich Mining Inc.
 2009-54 7-27-09 Authorizes purchase of real property (1.231 acres) from Doris Eisenhut.
 2018-29 7-23-18 Authorizing the purchase of real property for Public Safety Departments Training.
 2018-30 8-27-18 Accepting a donation of land from Countryside Estates, LTD.

TABLE F - LEASE OF REAL PROPERTY

Ord. No. Date Description

Res. 86 10-16-39 Authorizes lease of land and the right of way thereon, owned by Harold Sayre, for water drilling and development.
 181 4-26-48 Authorizes agreement with the Wheeling and Lake Erie RR Co. for the lease of its waiting room.
 416 3-25-57 Lease by Board of Public Affairs of Municipal Bldg.
 1951-5 8-27-51 Accepting lease of Outlot 14 in Elizabeth Croxton's Addition for recreational purposes.
 1951-6 8-27-51 Accepting lease of part of Outlot 4 in Elizabeth Croxton's Addition for recreational and pool purposes.
 1951-11 12-10-51 Accepting lease of Outlot 2, Elizabeth Croxton's Addition, from Della E. and F. B. Roudebush.
 1952-6 7-28-52 Accepting lease from Harold S. and Wilma E. Vashbinder of 1.16 acres in the southeast quarter of Sec. 32, Twp. 14 (Center),

Range 5.

- 1952-9 11-24-52 Authorizes lease agreement with Harold E. and Helen P. Wynn for water drilling purposes.
Res.1956-403 2-27-56 Authorizes a lease agreement with the Tennessee Gas Transmission Co. for storage of pipe, etc.
1971-8 10-21-71 Authorizes lease of Lot 18 from the Ohio Power Co. for parking purposes.
1976-8 11-9-76 Lease of Lot 18 of the original addition by the Ohio Power Co. to the Village for parking purposes.
1987-27 12-28-87 Executes a partial release of a Village lease of 8.827 acre tract of land located in Section 4 of Harrison Township, so that the owners of such property, Alfred and Laura Watkins, may sell such tract.
2009-61 9-28-09 Authorizes lease with Time Warner Cable for Village Water Tank.
2011-31 9-12-11 Authorizes the entering of a lease with Rosebud Mining Corporation for parking spaces in the High Street Municipal Parking Lot.
2015-27 6-22-15 Authorizes entering of an oil and gas lease with Chesapeake Exploration, LLC.
2016-39 10-24-16 Authorizing the entering of a lease for parking with American Electric Power for parking spaces for the Municipal Parking Lot at the Ohio Power Carrollton Service Center for a term of five years commencing November 1, 2016 and ending October 31, 2021.

TABLE G - STREET GRADE LEVELS AND CHANGE OF STREET NAME

Ord. No. Date Description

- 31 4-28-16 Renaming of various streets, avenues, roads and courts.
Res. 94 10-22-50 Grade on E. Main St.
148 11-12-40 Grade on E. Main St.
Res.1958-16 10-2-58 Changing certain street grades in Carroll Heights Allotment No.1.
2013-11 5-13-13 Renaming a portion of 10th Street NW to Daringer Avenue NW.

TABLE H - ANNEXATION AND DETACHMENT OF TERRITORY

Ord. No. Date Description

- 17 3-28-05 Authorizes annexation of part of Sec. 32, Twp. 14, Range 5, and part of Sec. 2, Twp. 15, Range 6.
21 5-27-10 Authorizes annexation of part of northeast quarter of Sec. 1, Twp. 15, Range 5.
49 4-14-25 Accepting application of Elizabeth Harsha, et al., for part of southwest quarter of Sec. 32, Twp. 14, Range 5, Steubenville Land District.
88 4-10-28 Authorizes annexation of part of southwest quarter of Sec. 32, Twp. 14, Range 5 (aka Tillett's Addition).
1957-5 8-26-57 Accepting application of Glen C. Reed, et al, for annexation.
1958-6 8-11-58 Accepting application of William T. Allmon, et al., for annexation.
Res.1958-13 7-28-58 Accepting annexation of 18.00 acres adjacent to the west corporation line, being Lots 1 through 25 in the Eisenhut Allotment, from William T. Allmon, et al.
Res.1959-7 7-27-59 Accepting by plat and easement the southern portion of Ray Ave.
Res.1959-8 8-10-59 Accepting annexation of McClave parcels or lots (1 to 10) adjacent to the north corporation line.
1964-5 9-14-64 Accepting a petition for annexation of territory.
1966-3 12-27-66 Accepting application of George D. Kemerer, et al., for annexation.
1968-9 12-9-68 Accepting application of John Moody for annexation.
1972-3 6-8-72 Accepting application of David E. and Shelia I. Kean for annexation.
1974-4 4-9-74 Accepting application of Patricia A. and George W. Miser for annexation.
1977-1 2-7-77 Annexation application of Kenneth Widder for 13.323 acres in Center Township.
1977-3 3-8-77 Annexation application of Donald G. Hall for 2.571 acres in Center Township.
1978-14 11-13-78 Annexation application of Roland and Marie Peters for .88 acres in Center Township.
1979-11 9-10-79 Annexation application of Donald N. Haugh for 8.65 acres in Center Township.
1979-17 12-10-79 Annexation application of Clifford M. and Doris R. Minor for 4.6418 acres in Center Township.
1980-7 8-11-80 Annexation application of Wilmer R. Best for 114.08 acres in Center Township.
1987-8 5-18-87 Annexation application of Board of Trustees of the Church of Christ for 17.984 acres in Center Township.
1987-20 10-5-87 Accepts annexation of 1.276 acre tract in Center Township to Village, being part of northeast quarter of Section 1, Township 15, Range 6 upon petition of Trustees of Church of God, Inc.
1988-4 2-22-88 Accepts annexation of .4454 acre tract in Center Township to Village.
1988-8 4-25-88 Annexation application of the Sisters of Our Lady of Charity, Inc., George H. Haines, R. Estella Haines and Jesse Slentz for 2.142 acres being a part of the southeast quarter of Section 2, Township 15, Range 6, Center Township.
1988-29 12-12-88 Annexation of 1.763 acres in Center Township.
1990-08 6-25-90 113.996 acres in Center Township upon the petition of Donald T. Lalinsky.
1990-15 8-27-90 113.996 acres in Center Township upon the petition of Emil Pozderac.
1990-23 9-24-90 Amends the caption of Ordinance 1990-15 to correct a clerical error to read 163.672 acres.
1990-26 12-17-90 2.32 acres in Center Township upon the petition of Earl Waggoner.
1992-06 3-23-92 Requests annexation of contiguous territory to widen State Route 43 near the intersection of State Route 43 and 12th Street N.W.
2000-28 12-26-00 0.984 acres in Center Township upon the petition of Two Carrollton Company, LLC.
2004-5 4-26-04 Consenting to annexation of three properties (McClelland, Roof and Sisters of Our Lady of Charity).
2004-7 4-24-04 26.916 acres upon petition of Mary Lou McClelland.
2008-75 11-24-08 Approving the annexation agreement with the center township trustees.
2009-25 4-13-09 Approving the Roswell-Moody annexation.
2011-34 8-22-11 Authorizes the annexation of territory as described in the attached legal description.
2017-16 3-13-17 Accepts the annexation as applied for in the annexation petition commonly known as the "Carrollton Village Schools Annexation" whereby 180.099 acres of property presently located in Center and Union Townships will be annexed to the Village.

TABLE I - ZONING MAP CHANGES

Ord. No. Date Description

- 1976-2 4-27-76 Amends 1973-9 to rezone 8 acres of Section 2, Township 15, Range 6 from RU to RA.
1977-4 3-8-77 Amends 1973-9 to rezone Lot 2 in Elson and Leslie's Addition to the northeast corner of N. Lisbon St. and Third St. NE known as 312 N. Lisbon St. from RD to RA.
1977-7 8-23-77 Amends 1973-9 to rezone Lots 5, 6 and 7 in the Pearson Addition known as 499 and 517 W. Main St. from RS-1 to B-1.

1977-13 9-14-77 Amends 1973-9 to rezone Lot 3 in Hardesty's First Addition known as 255 Second St. from RS-2 to B-1.

1978-5 6-26-78 Amends 1973-9 to rezone 1.021 acres owned by R. and N. China, Gary Roof and C. Nelson and being part of Section 33, Township 14, Range 5; 6 acres owned by Genuine Parts Co. of Atlanta, Georgia, and being part of Section 33, Township 14, Range 5 and 1.999 acres owned by Kenneth Widder and being part of Section 33, Township 14, Range 5 from RS-1 to B-3.

1978-6 6-26-78 Amends 1973-9 to rezone 0.205 acres in Section 22, Township 14, Range 5 of the Steubenville Land District from RS-1 to B-1.

1978-12 9-11-78 Amends 1973-9 to rezone part of Lot 4 in Pearson's Addition from RS-2 to B-1.

1979-3 3-26-79 Amends 1973-9 to place any territory not otherwise designated at the time of annexation in the R-1 Residential District.

1979-6 5-14-79 Amends 1973-9 to place any territory not otherwise designated at the time of annexation in the R-1 Residential District.

1979-18 12-10-79 Amends 1973-9 to rezone part of Lot 23 and all of Lot 24 in Atkinson's First Addition from RA to B-1.

1979-19 12-10-79 Amends 1973-9 to rezone 0.88 acres in Section 31 of the Steubenville Land District from RS-1 to B-1.

1979-20 12-27-79 0.30 acres in Section 1 and 8.53 acres in Section 31 designated RA District.

1979-21 12-27-79 4.6418 acres in Section 33 designated RA District.

1980-5 7-28-80 Amends 1973-9 to rezone parts B and C of Lot 9 in Atkinson's First Addition from RS-1 to B-1.

1980-6 8-11-80 Amends 1973-9 to rezone 2 parcels of land totaling 3.02 acres of land from B-3 to I.

1980-11 10-27-80 Amends 1973-9 to rezone certain property to RS-3, RA, I and B-2.

1983-15 8-22-83 Amends 1973-9 to rezone Lots 42 through 47 in the Smythe Allotment from RS-1 to B-2.

1984-3 2-27-84 Amends 1973-9 to rezone 3 parcels of land totaling .29 acres from RS-2 to B-2.

1984-10 5-30-84 Amends 1973-9 to rezone Lots 8 through 12 in the Smythe Allotment from RS-1 to B-2.

1984-11 5-30-84 Amends 1973-9 to rezone Lots 36 and 37 and parts of Lots 38 through 41 in the Smythe Allotment from RS-1 to B-2.

1984-13 9-24-84 Lot 1 in Pierson's Addition owned by John R. and Jacqueline Heflin and Duane C. and Elizabeth L. Moser from RS-1 to B-2.

1984-16 10-8-84 Part of 42.54 acre tract of land in the southeast quarter of Section 2, Township 15, Range 6 owned by the Steubenville Catholic Diocese from Rural to B-2.

1985-14 12-23-85 Amends 1973-9 to rezone 1.362 acres being Lots 1, 2 and 3 in an unrecorded plat from RS-1 to B-1.

1985-15 12-23-85 Amends 1973-9 to rezone part of Lots 64, 66 and 68 in Robert's First Addition and Lots 100 and 101 in Robert's Second Addition from RA to B-1.

1986-3 2-10-86 Amends 1973-9 to rezone 1.064 acres in the southeast quarter of Section 3 in Township 15, Range 6 from I to B-2.

1986-4 3-10-86 Amends 1973-9 to rezone two tracts of land in the southwest quarter of Section 32, Township 14, Range 5 in the Steubenville Land District and a ten foot strip off of the east side of Lot #1 in Fred W. McCoy's Addition from RS-1 to B-1.

1986-12 11-10-86 Amends 1973-9 to rezone a parcel of land in the Northview First Subdivision from RA to B-2.

1987-9 5-18-87 Amends 1973-9 to rezone Lots 2 and 3 in Pierson's Addition from RS-2 to B-1.

1987-10 6-8-87 Corrects clerical error in Ord. 1984-13 to change B-2 reference to B-1.

1987-22 12-14-87 Amends 1973-9 to rezone a parcel of land from RS-3 to R-A.

1988-5 4-25-88 Amends Ord. 1973-9 to rezone a parcel of land in the attached Exhibit A from R-A to B-2.

1988-15 4-25-88 Part of southeast quarter of Section 2, Township 15, Range 6, Center Township being territory annexed to the Village designated RS-2 for zoning purposes.

1988-25 8-22-88 Tract of land in the Oak Hill Addition from RS-2 to RD.

1988-30 1-9-89 Parcel of land on N. Lisbon St. from R-2 to R-A.

1989-14 7-10-89 Lots 13, 14 and 15 in Smyth's Allotment on Canton Road from RS- 1 to B-2.

1989-15 7-24-89 Lots 4, 5 and 6 in Atkinson's Allotment from RA to B-1.

1989-32 2-12-90 A parcel of land from RS-2 to B-1.

1989-33 2-12-90 A parcel of land from R-U to B-2.

1990-11 8-13-90 A parcel of land from RS-3 to B-1.

1991-26 11-25-91 Property at 259 3rd St. from RS-3 to B-1.

1992-09 6-8-92 7,150 square feet of property being a part of the Northwest Quarter of Section 31, Township 14, Range 5, Steubenville Land District from RS-2 to B-1.

1992-16 11-9-92 131 Second St. S.E. from RA to B-2.

1993-03 2-22-93 4.694 acres of land being part of a 23.023 acre tract from RU to RA.

1993-12 7-26-93 Property described in Exhibit A of this ordinance from RS-1 to R-A.

1994-03 2-28-94 An 18 acre tract described in Exhibit A from RU to RA.

1994-04 2-28-94 An 18.45 acre tract from RU to B-2.

1994-05 2-28-94 Part of Lot 25 of Eisenhut Allotment from RS-1 to RA.

1994-07 5-25-94 Property owned by Paul Moody from R-U to R-A.

1996-22 12-9-96 Properties located on the north side of Second St. N.W. from State Route 43 to Cellars Alley and along Cellars Alley to include the Daringer Property from RS2 to RD.

1996-25 12-9-96 Property known as 618 Canton Road N.W. from B-2 to B-3.

1997-03 3-10-97 Lots #10, 11 and 12 in Atkinson and McCook Addition and Lot #1 in Cetkinson's Southwestern Addition be rezoned from RA to B-1.

1997-19 10-27-97 Property described in Exhibit A from RS-1 to RS-3 and property fronting State Route 9 along the Carroll Meadows Golf Course from RS-1 to B-1.

1997-20 10-27-97 A parcel of land described in Exhibit A from B-1 to B-3.

1999-27 12-13-99 A parcel of land described in Exhibit A from RU to RA.

2000-04(a) 2-28-00 A parcel of land described in Exhibit A from RS-1 to B-2.

2000-15 6-12-00 A parcel of land described in Exhibit A from R-A to B-2.

2000-16 6-12-00 A parcel of land described in Exhibit A from R-A to B-2.

2001-45 12-27-01 Certain property owned by Roy and Vera Toalston from RC to B-1.

2005-4 4-25-05 Property currently owned by the Center Township Trustees from RA to B-1.

2005-19 11-14-05 Property currently owned by Joy Reed from RA to B-1.

2007-22 6-11-07 Property currently owned by Mark Lamielle from RA to B-1.

2007-29 9-10-07 Property currently owned by various property owners from RA-2 to B-1.

2007-35 9-24-07 Property currently owned by Countryside Estates, Ltd. from B-2 to RA.

- 2008-14 4-28-08 Property currently owned by Carrollton Farmers Exchange Co. from RA to I.
- 2012-20 6-25-12 Certain property currently owned by Daniel R. Ries and Thomas W. Parker from the split zoning of RD and B-3 to all of said premises being zoned as a B-3.
- 2013-33 11-25-13 Certain property currently owned by Sisters of Our Lady of Charity from RS2 to B-1 District.
- 2014-26 10-27-14 The following premises from RS-1 to said premises being zoned a B-1 zoning district: Situated in the Village of Carrollton, County of Carrol and State of Ohio: Known as and being Lot Nos. 25, 26 and 27 in Smythe Allotment to said Village. Parcel Nos. 10-0000687.000, 10-0000688.000 and 10-0000689.000.
- 2016-42 1-9-17 Certain property owned by various owners located on 2nd Street SE from RS Residential to B-1 Commercial.
- 2017-45 11-13-17 Parcel Nos. 10-0001430.000, 10-0001482.000, 10-0000483.000, 10-0000484.000 and 10-0000992.000 from B-1 (General Business District) and RS-2 (Residential) to an I (Industrial).
- 2019-40 11-25-19 The Carrollton Village Schools Annexation property, which includes the property known as the Carrollton Village Schools property and the Industrial Park property, is hereby designated as an I Industrial District zone.
- 2019-41 11-25-19 The Carrollton Chaela Annexation property, known as the Centreville Village property, is hereby designated as a B-1 General Business District zone.
- 2021-08 2-22-21 Property located at 40 Second Street NE, from B-3 to RA.

CODIFIED ORDINANCES OF CARROLLTON

PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

Chap. 101. Codified Ordinances.

Chap. 103. Official Standards.

TITLE THREE - Legislative

Chap. 121. Council.

Chap. 123. Ordinances and Resolutions.

TITLE FIVE - Administrative

Chap. 131. Mayor.

Chap. 133. Clerk-Treasurer.

Chap. 135. Solicitor.

Chap. 137. Police Department.

Chap. 139. Fire Department.

Chap. 141. Street Department.

Chap. 143. Planning Commission.

Chap. 145. Village Administrator.

Chap. 147. Employment Provisions.

Chap. 149. Identity Theft Policy.

TITLE SEVEN - Judicial

Chap. 171. Mayor's Court.

TITLE NINE - Taxation

Chap. 183. Income Tax Effective January 1, 2016.

Chap. 191. Hotel Tax.

CODIFIED ORDINANCES OF CARROLLTON

PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

Chap. 101. Codified Ordinances.

Chap. 103. Official Standards.

CHAPTER 101

Codified Ordinances

- 101.01 Designation; citation; headings.**
- 101.02 General definitions.**
- 101.03 Rules of construction.**
- 101.04 Revivor; effect of amendment or repeal.**
- 101.05 Construction of section references.**
- 101.06 Conflicting provisions.**
- 101.07 Determination of legislative intent.**
- 101.08 Severability.**
- 101.99 General penalty.**

CROSS REFERENCES

See sectional histories for similar State law

Statute of limitations on prosecutions - see Ohio R.C. 718.06; GEN. OFF. 501.06

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

Imprisonment until fine and costs are paid - see Ohio R.C. 1905.30, 2947.14

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

Ordinances and resolutions - see ADM. Ch. 123

Rules of construction for offenses and penalties - see GEN. OFF. 501.04

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 Carrollton, Ohio, 1987 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 another definition is 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(F))

(b) "Another" 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) "Bond" includes an undertaking and "undertaking" includes a bond.

(ORC 1.02(D), (E))

(d) "Council" means the legislative authority of the Municipality.

(e) "County" means Carroll County, Ohio.

(f) "Keeper" or "proprietor" includes all persons, whether acting by themselves or as a servant, agent or employee.

(g) "Land" or "real estate" includes rights and easements of an incorporeal nature.

(ORC 701.01(F))

(h) "Municipality" or "Village" means the Village of Carrollton, Ohio

(i) "Oath" includes affirmation and "swear" includes affirm.

(ORC 1.59(B))

(j) "Owner", when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.

(k) "Person" includes an individual, corporation, business trust, estate, trust, partnership and association.

(ORC 1.59(C))

(l) "Premises", as applied to property, includes land and buildings.

(m) "Property" means real and personal property.

(ORC 1.59(E))

"Personal property" includes all property except real.

"Real property" includes lands, tenements and hereditaments.

(n) "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.

(o) "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.

(p) "Registered mail" includes certified mail and "certified mail" includes registered mail.

(ORC 1.02(G))

(q) "Rule" includes regulation. (ORC 1.59(F))

(r) "Sidewalk" means that portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.

(s) "This State" or "the State" means the State of Ohio.

(ORC 1.59(G))

(t) "Street" includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the Municipality.

(u) "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.

(v) "Whoever" includes all persons, natural and artificial; partners; principals, agents and employees; and all officials, public or private.

(ORC 1.02(A))

(w) "Written" or "in writing" includes any representation of words, letters, symbols or figures. This provision does not affect any law relating to signatures.

(ORC 1.59(J))

101.03 RULES OF CONSTRUCTION.

(a) Common and Technical Usage. Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

(ORC 1.42)

(b) Singular and Plural; Gender; Tense. As used in the Codified Ordinances, unless the context otherwise requires:

(1) The singular includes the plural, and the plural includes the singular.

(2) Words of one gender include the other genders.

(3) Words in the present tense include the future.

(ORC 1.43)

(c) Calendar; Computation of Time.

(1) Definitions.

A. "Week" means seven consecutive days.

B. "Year" means twelve consecutive months.

(ORC 1.44)

(2) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

(ORC 1.45)

(3) 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)

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

(ORC 1.15)

(5) 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) The repeal of a repealing ordinance does not revive the ordinance originally repealed nor impair the effect of any saving clause therein.

(ORC 1.57)

(b) An ordinance which is re-enacted or amended is intended to be a continuation of the prior ordinance and not a new enactment, so far as it is the same as the prior ordinance.

(ORC 1.54)

(c) The re-enactment, amendment or repeal of an ordinance does not, except as provided in subsection (d) hereof:

(1) Affect the prior operation of the ordinance or any prior action taken thereunder;

(2) Affect any validation, cure, right, privilege, obligation or liability previously acquired, accrued, accorded or incurred thereunder;

(3) Affect any violation thereof or penalty, forfeiture or punishment incurred in respect thereto, prior to the amendment or repeal;

(4) Affect any investigation, proceeding or remedy in respect of any such privilege, obligation, liability, penalty, forfeiture or punishment; and the investigation, proceeding or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment imposed, as if the ordinance had not been repealed or amended.

(d) If the penalty, forfeiture or punishment for any offense is reduced by a re-enactment or amendment of an ordinance, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the ordinance as amended.

(ORC 1.58)

101.05 CONSTRUCTION OF SECTION REFERENCES.

(a) A reference to any portion of the Codified Ordinances applies to all re-enactments or amendments thereof.

(ORC 1.55)

(b) If a section refers to a series of numbers or letters, the first and the last numbers or letters are included.

(ORC 1.56)

(c) Wherever in a penalty section reference is made to a violation of a series of sections or of subsections of a section, such reference shall be construed to mean a violation of any section or subsection 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.

(a) If there is a conflict between figures and words in expressing a number, the words govern.

(ORC 1.46)

(b) If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail.

(ORC 1.51)

(c) (1) If ordinances enacted at different meetings of Council are irreconcilable, the ordinance latest in date of enactment prevails.

(2) If amendments to the same ordinance are enacted at different meetings of Council, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are substantively irreconcilable, the latest in date of enactment prevails. The fact that a later amendment restates language deleted by an earlier amendment, or fails to include language inserted by an earlier amendment, does not of itself make the amendments irreconcilable. Amendments are irreconcilable only when changes made by each cannot reasonably be put into simultaneous operation.

(ORC 1.52)

101.07 DETERMINATION OF LEGISLATIVE INTENT.

(a) In enacting an ordinance, it is presumed that:

(1) Compliance with the constitutions of the State and of the United States is intended;

(2) The entire ordinance is intended to be effective;

(3) A just and reasonable result is intended;

(4) A result feasible of execution is intended.

(ORC 1.47)

(b) An ordinance is presumed to be prospective in its operation unless expressly made retrospective.

(ORC 1.48)

(c) If an ordinance is ambiguous, the court, in determining the intention of Council may consider among other matters:

(1) The object sought to be attained;

(2) The circumstances under which the ordinance was enacted;

(3) The legislative history;

(4) The common law or former legislative provisions, including laws upon the same or similar subjects;

(5) The consequences of a particular construction;

(6) The administrative construction of the ordinance.

(ORC 1.49)

101.08 SEVERABILITY.

If any provision of a section of the Codified Ordinances or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of the section or related sections which can be given effect without the invalid provision or application, and to this end the provisions are severable.

(ORC 1.50)

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 each day during or on which a violation continues or occurs.

CHAPTER 103

Official Standards

EDITOR'S NOTE: There are no sections in Chapter 103. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

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

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

State flag - see Ohio R.C. 5.01

TITLE THREE - Legislative

Chap. 121. Council.

Chap. 123. Ordinances and Resolutions.

CHAPTER 121

Council

121.01 Meetings.

121.02 Petitions.

121.03 Public Records Policy.

121.04 Salary of Council members.

CROSS REFERENCES

General powers - see Ohio R.C. 715.03, 731.47

Composition and term - see Ohio R.C. 731.09

President pro tempore; employees - see Ohio R.C. 731.10

Qualifications - see Ohio R.C. 731.12, 731.44

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

Misconduct - see Ohio R.C. 733.72 et seq.

Open meetings - see Ohio R.C. 121.22

121.01 MEETINGS.

Regular meetings of Council shall be held on the second and fourth Mondays of each month at 7:00 p.m. in the Council chambers. When any regular meeting of Council falls on a legal holiday or on an election day, Council shall meet in regular session on the day following at such place and hour set by Council.

(Ord. 2003-14. Passed 7-28-03.)

121.02 PETITIONS.

All requests, petitions, projects or items presented to Council by an individual or group and requiring an expenditure of funds or a change of policy are to be referred to the proper Council committee or to Council as a whole for further study. Final decision upon such items, policies, petitions or requests is to be later arrived at, after further consideration, consultation and investigation by Council members.

(Res. 327. Passed 5-26-52.)

121.03 PUBLIC RECORDS POLICY.

Council does hereby approve and adopt a Public Records Policy for the Village to ensure that the public records of the Village that are not exempt from disclosure are available for public inspection and copying during regular business hours. A copy of the Public Records Policy is attached to Ordinance 2008-17 and designated as "Exhibit A.

(Ord. 2008-17. Passed 4-14-08.)

121.04 SALARY OF COUNCIL MEMBERS.

The annual salary for each member of Council of the Village of Carrollton, Ohio shall be \$3,600.00 for each year of each Council member's four year overlapping term.

(Ord. 2011-27. Passed 8-22-11.)

CHAPTER 123

Ordinances and Resolutions

EDITOR'S NOTE: There are no sections in Chapter 123. This chapter has been established to provide a place for cross references any future

legislation.

CROSS REFERENCES

Newspaper publication - see Ohio R.C. 7.12, 701.04, 731.21 et seq.
Adoption and style - see Ohio R.C. 715.03, 731.17 et seq.
Subject and amendment - see Ohio R.C. 731.19
Authentication - see Ohio R.C. 731.20
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.
Initiative and referendum - see Ohio R.C. 731.28 et seq.
Emergency measures - see Ohio R.C. 731.30
Codified Ordinances - see ADM. Ch. 101

TITLE FIVE - Administrative

Chap. 131. Mayor.
Chap. 133. Clerk-Treasurer.
Chap. 135. Solicitor.
Chap. 137. Police Department.
Chap. 139. Fire Department.
Chap. 141. Street Department.
Chap. 143. Planning Commission.
Chap. 145. Village Administrator.
Chap. 147. Employment Provisions.
Chap. 149. Identity Theft Policy.

CHAPTER 131

Mayor

131.01 Cooperative purchasing.

131.02 Salary.

CROSS REFERENCES

Removal from office - see Ohio R.C. 3.07 et seq.
Acting Mayor - see Ohio R.C. 731.10 et seq., 733.25
Election, term, qualifications and powers - see Ohio R.C. 733.24
To be Council president - see Ohio R.C. 733.24
Vacancy - see Ohio R.C. 733.25
To appoint and remove auxiliary police officers - see Ohio R.C. 737.161
Salary - see Ohio R.C. 1905.21

131.01 COOPERATIVE PURCHASING.

(a) The Clerk-Treasurer and Mayor hereby request authority in the name of the Village to participate in State contracts which the Department of Administrative Services, Office of State Purchasing has entered into for the purchase of supplies, services, equipment and certain material pursuant to Ohio R.C. 125.04.

(b) The Clerk-Treasurer and Mayor are hereby authorized to agree in the name of the Village to be bound by all contract terms and conditions as the Department of Administrative Service, Office of State Purchasing prescribes. Such terms and conditions may include a reasonable fee to cover the administrative costs which the Department of Administrative Services incurs as a result of the Village's participation in a contract. Further, the Clerk-Treasurer and Mayor do hereby agree to be bound by all such terms and conditions.

(c) The Clerk-Treasurer and Mayor are hereby authorized to agree in the name of the Village to directly pay the vendor, under each such State contract in which it participates, for items it receives pursuant to the contract.
(Ord. 1992-17. Passed 12-14-92.)

131.02 SALARY.

(a) Effective for the term of the Mayor commencing January 1, 2016 the annual salary is hereby established at twelve thousand and 00/100 dollars (\$12,000).

(b) The salary of the Mayor shall be paid in the amount of one thousand and 00/100 dollars (\$1,000) per month on the last payday of each month in accordance with the established pay schedule for the Village.
(Ord. 2014-04. Passed 2-10-14.)

CHAPTER 133

Clerk-Treasurer

133.01 Offices of Clerk and Treasurer combined.

133.02 Cash reserve.

133.03 Health insurance.

133.04 Investment Policy.

133.05 Salary.

133.06 Maximum dollar limit for blanket certificates.

133.07 Procurement and purchasing policy.

133.08 Internal office check signing and bank statement reconciliation procedures.

133.09 Credit card policy.

CROSS REFERENCES

Loss of funds; release of liability - see Ohio R.C. 131.18 et seq.
Uniform Bond Law - see Ohio R.C. Ch. 133
Uniform Depository Act - see Ohio R.C. Ch. 135
Auditing accounts - see Ohio R.C. 733.12 et seq.
Election and terms - see Ohio R.C. 733.26
Merger of offices of Clerk and Treasurer - see Ohio R.C. 733.261
Powers and duties - see Ohio R.C. 733.27, 733.44
Annual report to Council - see Ohio R.C. 733.45

133.01 OFFICES OF CLERK AND TREASURER COMBINED.

The duties of the Clerk and the Treasurer of the Village shall be combined into one office to be known as the Clerk-Treasurer. This combination shall be effective on January 1, 1976. (Ord. 1973-5. Passed 7-30-73.)

133.02 CASH RESERVE.

(a) The Clerk-Treasurer is authorized to keep a cash reserve in an amount not to exceed one hundred dollars (\$100.00) in the vaults of her office for the purpose of making change for filing fees, costs and other costs incident to the administration of Mayor's Court. (Ord. 1996-05. Passed 4-22-96.)

(b) The Clerk-Treasurer is authorized to keep a cash reserve in an amount not to exceed one hundred dollars (\$100.00) in the vaults of her office for the purpose of paying postage and other costs incident to the collection and testing of water samples. (Ord. 1991-23. Passed 10-14-91.)

133.03 HEALTH INSURANCE.

The Clerk-Treasurer shall receive an additional benefit of a family plan of health insurance. (Ord. 1999-13. Passed 7-26-99.)

133.04 INVESTMENT POLICY.

(a) Policy Statement.

(1) It is the policy of the Village to invest public funds in a manner which will provide the maximum security, safety, and preservation of principal invested with secondary emphasis on achieving the highest yield, while meeting the daily cash flow demands of the Village and conforming to all applicable local, State and Federal statutes governing the investment of public funds by an Ohio municipality.

(2) The Treasurer is the investment officer for the Village, charged with the responsibility for the purchase and sale of investments and the carrying out of this Investment Policy.

(b) Scope. This Investment Policy applies to all financial assets of the Village, including State and Federal funds held by it. The Treasurer shall routinely monitor the contents of the Village's investment portfolio, the available markets and relative value of competing investments and will adjust the portfolio accordingly.

(c) Prudence.

(1) Investments shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

(2) The standard of prudence to be used by the Treasurer shall be the "prudent investor" standards and shall be applied in the context of managing the overall portfolio. Acting in accordance with this Investment Policy and exercising due diligence shall relieve the Treasurer of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported to Council in a timely fashion and appropriate action is taken to control adverse developments.

(d) Objectives.

(1) Banks vary in services they provide, their service fees, interest rates on interim investments and the minimum compensating balances required for demand-deposit accounts. The Village's objective is to obtain good banking services while minimizing the cost of banking services to the Village.

(2) To insure that the City will continue to receive the best service and rate available and that other financial institutions will have an equal opportunity to competitively bid in future years, the Village will seek competitive proposals for depositories of active funds at least every two years.

(3) The primary objectives, in priority order, of the Village's investment activity shall be:

A. Safety: Safety of principal is the foremost objective of the investment program. Investments of the Village shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective the Village will diversify its investments to avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions.

B. Liquidity: The Village's investment portfolio will remain sufficiently liquid to enable it to meet all operating requirements, which might be reasonably anticipated.

C. Return on Investment: The Village's investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account this Investment Policy and the cash flow characteristics of the portfolio.

(e) Ethics and Conflict of Interest. Persons involved in the investment process shall refrain from personal business activity which could create a conflict with proper execution and management of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment officials shall disclose to the Village any material financial interest in financial institutions that conduct business with the Village, and they shall further disclose any large personal financial or investment positions that could be related to, or affected by, the performance of the Village's portfolio. All employees, officers and investment officials to the Village shall subordinate their personal investment transactions to those of the Village, particularly with regard to the timing of purchases and sales.

(f) Authorized Financial Dealers and Institutions.

(1) The Treasurer will maintain a list of financial institutions and approved security broker/dealers selected by credit worthiness, who maintain an office in the State of Ohio and are authorized to provide investment services and which qualify under Ohio R.C. 135.14(M)(1). These may include "primary" dealers or regional dealers that qualify under the Securities and

Exchange Commission Rule 15C3-1 and are registered with the Ohio Department of Commerce to do business in the State.

- (2) All financial institutions and broker/dealers which desire to become qualified suppliers of investment transactions to the Village must provide the Treasurer with audited annual financial statements, proof of good standing with the Comptroller of Currency or State banking regulators or National Association of Securities Dealers certification, proof of Ohio registration and biographical and regulatory information on the persons who are the primary contact with the entity. All financial institutions, broker/dealers and consultants which desire to conduct investment business with the Village must sign a copy of this Investment Policy, certifying they have read it, understand it and agree to abide by its contents.

(g) Authorized Investments. The Village is empowered by statute to invest in the following types of securities:

- (1) U.S. Treasury Securities. United States Treasury bills, notes, bonds or other obligation or security issued by the United States Treasury or any other obligation guaranteed as to principal and interest by the United States.
- (2) U.S. Governmental Agency Securities. Bonds, notes, debentures, or other obligations or securities issued by any federal government agency or instrumentally, including but not limited to:
- A. Federal National Mortgage Association (FNMA)
 - B. Federal Farm Credit Bank (FFCB)
 - C. Federal Home Loan Bank (FHLB)
 - D. Federal Home Loan Mortgage Association (FHLMC)
 - E. Government National Mortgage Association (GNMA)
 - F. Student Loan Marketing Association (SLMA).

All such securities shall be direct issue of a federal government agency or instrumentality.

- (3) Interim deposits. Interim deposits in duly authorized depositories of the Village, provided those deposits are property insured or collateralized as required by law.

(4) Ohio Government Securities. Bonds, notes and other obligations issued by the State of Ohio.

(5) No-load Money Market Mutual Funds. No-load money market mutual funds consisting exclusively of securities described in subsection (1) and (2) hereof and repurchase agreements secured by such obligations, provided all such investments under this subsection shall be made with a bank or savings and loan association eligible to be a depository for public funds of Ohio subdivisions and provided further that any such fund meets the requirements of Ohio R.C. Chapter 135, including that such fund not include any investment in a "derivative".

(6) State Treasury Asset Reserve of Ohio. The State Treasury Asset Reserve of Ohio ("Star Ohio") is a statewide investment pool managed by the treasurer of the State of Ohio similar in concept to a money market fund but available exclusively to political subdivisions of Ohio. State law sets the guidelines that determine the program's investment practices.

(7) Repurchase Agreements. Overnight or term (not exceeding 30 days) repurchase agreements meeting the requirements of Ohio R.C. 135.14(E), with a bank or savings and loan association eligible to be a depository for public funds of Ohio subdivision or a member of the National Association of Securities Dealers.

(8) Certificates of deposits. Interest bearing certificates of deposits in banks and savings and loan associations organized under the laws of Ohio, and national banks organized under the laws of the United States, doing business and situated in Ohio, provided that any such deposits are secured by collateral as prescribed herein. (Collateralization requirements are detailed under Ohio R.C. 135.18 and 135.181.)

(9) Now accounts. Now accounts, super now account or any other similar account authorized by the Federal Reserve's Depository Institutions' Deregulation Committee.

(h) Diversification. The Village will diversify its investments by security, type and institution to minimize the risk of loss resulting in over concentration of assets in a specific maturity, specific issuer or specific class of securities.

(i) Maximum Maturities. To the extent possible, the Village will attempt to match its investments with anticipated cash flow requirements. Maximum final stated maturity will be five years. Unless matched to a specific obligation or debt of the Village, the Village will not directly invest in securities listed as (1) through (5) above maturing more than five years from the date of settlement if such securities bear interest at a fixed rate, and it will not directly invest in such securities maturing more than two years from the date of settlement if they bear interest at a variable rate.

(j) Safekeeping and Custody. All security transactions, including securities acquired subject to repurchase agreements, entered into by the Village shall be conducted on a delivery- versus-payment (DVP) basis. Purchased securities shall be held by a third party custodian, designated by the Treasurer, that is a Federal Reserve Bank or other "qualified trustee" within the meaning of Ohio R.C. 135.18(I), and the safekeeping of those securities for the benefit of the Village shall be evidenced by a safekeeping statement to the Treasurer listing the specific instrument, rate, maturity and other pertinent information. Purchased securities shall be released by the Village only upon verification that the principal and interest, or proceeds of sale of the securities, have been credited to the Village's account.

(k) Prohibited Investment Practices. In addition to any other prohibitions in the Revised Code, the Village shall not:

- (1) Contact to sell securities that have not yet been acquired on the speculation that prices will decline;
- (2) Make any investment in "derivatives" as defined in Ohio R.C. 135.14(C);
- (3) Invest in a fund established by another public body for the purpose of investing public money of other subdivisions unless the fund is either: STAR OHIO, or a fund created solely for the purpose of acquiring, constructing, owning, leasing or operating municipal utilities as authorized under Ohio R.C. 715.02 or Section 4 of Article XVIII of the Ohio Constitution;
- (4) Enter into reverse repurchase agreements;
- (5) Leverage current investments as collateral to purchase other assets;
- (6) Invest in stripped principal or interest obligations of otherwise eligible obligations.

(l) Internal Controls. The Treasurer shall develop and maintain procedures for the operation of the Village's investment program in accordance with this Investment Policy. These procedures shall be designed to prevent loss of the Village's funds due to fraud, error, misrepresentation by third parties, unanticipated market changes or imprudent actions.

(m) Reporting. The Treasurer shall maintain a current inventory of all investment and shall report monthly to the Village council finance committee of all investment activity by means of a Treasurer's Report.

(n) Education. The Treasurer shall participate in any beginning and/or continuing education training programs sponsored by the State Treasurer or State Auditor in which the Treasurer is required to participate pursuant to Ohio R.C. 117.44, 135.22 and 733.27. Through participation in those programs, the Treasurer will develop and maintain an enhanced background and working knowledge in investment, cash management, and ethics.

(o) Non-Binding Arbitration. The Treasurer may enter into a written investment or deposit agreement that includes a provision under which the parties agree to submit to non-binding arbitration (but not binding arbitration) to settle any controversy that may arise out of that agreement so long as such provision meets the requirements of the Revised Code and is specifically approved by Council.

(p) Investment Policy Adoption. This Investment Policy shall be adopted by Council and, upon adoption, filed in the office of the Auditor of State. The policy shall be reviewed on an annual basis by the Council Finance Committee, and any modifications made thereto must be approved by the Council and, upon adoption, filed in the office of the Auditor of State.

(q) Signature of All Parties Involved. A copy of the policy shall be forwarded to each broker/banker/dealer doing business with the entity for review and their signature.

Treasurer _____ Investment Banker/Broker/Advisor _____

Date: _____

(Res. 1999-19. Passed 9-27-99.)

133.05 SALARY.

Effective for the new term of the Clerk-Treasurer commencing April 1, 2012, the annual salary shall be \$45,306.00 for each year of the four year term of the Village Clerk-Treasurer. (Ord. 2011-28. Passed 8-22-11.)

133.06 MAXIMUM DOLLAR LIMIT FOR BLANKET CERTIFICATES.

(a) Pursuant to Ohio R.C. 5705.41(D), there is hereby established a maximum dollar limit of thirty-five thousand dollars (\$35,000) for blanket certificates for the expenditure of funds by the Village.

(b) The Clerk-Treasurer is hereby authorized to prepare and sign blanket certificates in compliance with the requirements of Ohio R.C. 5705.41(D) in amounts not to exceed thirty-five thousand dollars (\$35,000) for the lawfully appropriated, authorized and accounted for expenditures of the Village. (Ord. 2009-65. Passed 10-12-09.)

133.07 PROCUREMENT AND PURCHASING POLICY.

EDITOR'S NOTE: Pursuant to Ordinance 2017-02 the Village has enacted a Procurement and Purchasing Policy. Copies are on file at the Village Hall.

133.08 INTERNAL OFFICE CHECK SIGNING AND BANK STATEMENT RECONCILIATION PROCEDURES.

(a) Commencing on the effective date of this section, the Village of Carrollton internal office procedure is hereby changed to require two signatures on every check to authorize an expenditure of Village funds. The holders of the office Clerk-Treasurer, Village Administrator and Mayor shall be authorized as signatories to the Village checking account, and any two of the said three signatures shall be required to authorize any expenditure of Village Funds.

(b) Further, commencing on the effective date of this section, the holder of the position of Office Clerk/Accounting, shall have no authority to make deposits or withdrawals from any of the Village bank accounts, and shall be charged with the responsibility each month to reconcile the bank statement of each account maintained by the Village of Carrollton, Ohio.

(c) The Clerk-Treasurer is directed to have all four positions/offices bonded commencing on the effective date of this section to protect all Village funds.

(d) The Clerk-Treasurer is directed to provide a certified copy of this section annually to each bank designated as a depository for Village funds and to each of the bonding companies issuing indemnity bonds for the protection of Village funds.

(e) This section is declared an emergency measure necessary to the immediate preservation of the public health, safety and welfare of the residents of the Village of Carrollton, Ohio to ensure that the internal office procedures are in place for the Village to qualify to be bonded to protect all public funds of the Village, and shall become effective at the earliest date allowed by law.

(Ord. 2017-21. Passed 4-17-17.)

133.09 CREDIT CARD POLICY.

To comply with House Bill 312, the credit card policy attached to Ordinance 2019-04 as Exhibit A is hereby approved.

(Ord. 2019-04. Passed 1-28-19.)

CHAPTER 135

Solicitor

EDITOR'S NOTE: There are no sections in Chapter 135. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Conflict of interest - see Ohio R.C. 120.39

Legal counsel - see Ohio R.C. 733.48

Preparation of books - see Ohio R.C. 733.70

CHAPTER 137

Police Department

137.01 Composition.

137.02 Rules and regulations.

137.03 Uniforms.

137.04 Policy and procedure manual.

137.05 Auxiliary police unit.

137.06 Waiver of residency requirement for Police Chief.

CROSS REFERENCES

Peace officer training certificate required for permanent employment - see Ohio R.C. 109.77
Police protection contracts - see Ohio R.C. 505.441, 737.04
Composition - see Ohio R.C. 715.05, 737.16
General powers and duties - see Ohio R.C. 737.11, 737.18
Appointment of marshal - see Ohio R.C. 737.15
Auxiliary police unit - see Ohio R.C. 737.161
Powers and duties of marshal - see Ohio R.C. 737.161, 737.19
Probationary period; final appointment - see Ohio R.C. 737.17
Removal and appeal - see Ohio R.C. 737.171
Municipal peace officer basic training program - see OAC Ch. 109:2-1 to 2-3

137.01 COMPOSITION.

The Police Department shall be composed of a Chief of Police and such other officers and personnel as Council shall from time to time determine.

137.02 RULES AND REGULATIONS.

The Police Chief is hereby authorized to make such rules and regulations as are necessary for the efficient operation of the Police Department.

137.03 UNIFORMS.

The Village shall purchase uniforms or equipment, except firearms, for each policeman, as needed. Such uniform shall be at all times the property of the Village and shall be returned to the Village when and if a policeman leaves the Police Department.

137.04 POLICY AND PROCEDURE MANUAL.

The policy and procedure manual of the Carrollton Police Department, attached to Ordinance 1997-16 and incorporated therein, is hereby adopted.

(Ord. 1997-16. Passed 8-11-97.)

137.05 AUXILIARY POLICE UNIT.

(a) There is created within the Village Police Department an auxiliary police unit, the members of which shall be appointed by the Mayor.

(b) Auxiliary police officers shall serve so long as the Mayor may direct, or until a resignation submitted by any such member is accepted by the Mayor.

(c) The members of the auxiliary police unit shall have the residency requirements established by the Chief of Police for full-time and part-time officers of the department, and may not be under the age of twenty-one years at the time of their appointment, and must comply with such other requirements as provided by rules adopted under subsection (e) hereof. The rate of pay for said position is established to be the same hourly rate as assigned by ordinance to part-time police officers in the Village Police Department.

(d) The Chief of Police shall be the commanding officer of the auxiliary police unit and shall have control of the assignment, training, stationing, and the direction of work of such unit. The auxiliary police unit will have all police powers, but shall perform only such police duties as assigned by the Chief of Police and shall act only when in the prescribed uniform or partial uniform. Such auxiliary members shall obey the chain of command of the Police Department and shall take orders from all regular appointed members thereof.

(e) The members of the auxiliary police unit shall be subject to the rules for the Police Department for organization, administration, conduct and control as established by the Chief of Police for full-time and part-time officers of the department.

(f) The Chief of Police is authorized to prescribe the type of uniform or part thereof which shall be worn by the members of the auxiliary police unit, and the times and places such uniform or portion thereof shall be worn.

(g) (1) All services performed by auxiliary policemen shall be on a voluntary basis and within the Village.

(2) The rate of pay for auxiliary policemen is established to be the same hourly rate as assigned by ordinance to part-time police officers in the Police Department.

(h) This section is for the protection of public peace, health, property, safety and general welfare, and neither the Village nor any agent or representative of the Village, an officer appointed under this section, or any individual, firm, partnership, corporation or the receiver or trustees of any other agent thereof, who in good faith executes any executive order or rule promulgated pursuant to this section shall be liable for injury or damage sustained as the direct or proximate result of such action.

(Ord. 2012-47. Passed 12-29-12.)

137.06 WAIVER OF RESIDENCY REQUIREMENT FOR POLICE CHIEF.

The requirement in Ohio R.C. 737.15 that within six months after appointment the Chief of Police shall become a resident of the Village is hereby waived and the Chief of Police shall not be required to be a resident of the Village.

(Ord. 2014-05. Passed 3-24-14.)

CHAPTER 139

Fire Department

139.01 Composition.

139.02 Rules and regulations.

139.03 Records.

CROSS REFERENCES

Volunteer Firemen's Dependents Fund - see Ohio R.C. Ch. 146
Fire protection contracts - see Ohio R.C. 307.05, 505.44, 717.02
Schooling, buildings and equipment - see Ohio R.C. 715.05, 737.23 et seq.
Gas masks for firemen; requirements - see Ohio R.C. 3737.31
Parking near fire - see TRAF. 331.27
Driving over fire hose - see TRAF. 331.28

139.01 COMPOSITION.

The Volunteer Fire Department shall be composed of a Fire Chief and such other officers and personnel as Council shall from time to time determine.

139.02 RULES AND REGULATIONS.

The Fire Chief is hereby authorized to make such rules and regulations as are necessary for the efficient operation of the Volunteer Fire Department.

139.03 RECORDS.

The Fire Chief shall keep in convenient form a complete record of all fires. Such record shall include the time of the alarm, the location of the fire, the cause of the fire (if known), the type of building, the name of the owner and/or the tenant, the purpose for which the building was occupied, the value of the building and its contents, the members of the Department responding to the alarm, and such other information as he deems advisable or as may be required from time to time by Council.

CHAPTER 141

Street Department

EDITOR'S NOTE: There are no sections in Chapter 141. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Appointment of Street Commissioner; term; vacancy - see Ohio R.C. 735.31

Duties - see Ohio R.C. 735.32

Assistants - see Ohio R.C. 735.33

CHAPTER 143

Planning Commission

143.01 Creation; composition; duties.

CROSS REFERENCES

Plat approval required - see Ohio R.C. 711.09

Planning Commission shall be Platting Commission - see Ohio R.C. 713.03

Planning Commission powers and duties - see Ohio R.C. 713.02, 713.06

Appeals from administrative agencies - see Ohio R.C. Ch. 2506

143.01 CREATION; COMPOSITION; DUTIES.

(a) A Planning Commission is hereby created in accordance with the provisions of Ohio R.C. Chapter 713.

(b) The Commission shall consist of five members, including the Mayor, one member of the legislative authority to be elected by the legislative authority, for the remainder of his term with the legislative authority, and three citizens of the Village to be appointed by the Mayor for terms of six years each, except that the first term of one member shall be for four years and the first term of another member shall be for two years.

(c) All members of the Commission shall serve without compensation.

(d) The Commission shall organize and be vested with all the rights, duties and powers found in Ohio R.C. Chapter 713.

CHAPTER 145

Village Administrator

145.01 Established; duties; compensation.

CROSS REFERENCES

Appointment, removal - see Ohio R.C. 735.271

Power to contract - see Ohio R.C. 731.141

Board of trustees of public affairs abolished - see Ohio R.C. 735.272

Powers and duties - see Ohio R.C. 735.271, 735.273

145.01 ESTABLISHED; DUTIES; COMPENSATION.

(a) The position of Village Administrator be and hereby is created.

(b) The Village Administrator shall be appointed by the Mayor subject to approval of the appointment by a majority of the members of Council.

(c) The Village Administrator shall have the powers and duties as prescribed by Ohio R.C. 735.273.

(d) The Village Administrator shall be compensated for services performed at a salary commensurate to the duties and hours of service at a rate of pay to be determined by the members of Council.

(e) The Village Administrator shall be qualified for the position in accordance with Ohio R.C. 735.271. (Ord. 1995-07. Passed 8-14-95.)

CHAPTER 147

Employment Provisions

EDITOR'S NOTE: Ordinance 2014-06, passed February 24, 2014 adopted a personnel policy and procedure manual. See the Clerk-Treasurer for the latest employment provisions.

147.01 Expense reimbursement.

- 147.02 Workplace health and safety policy.**
- 147.03 Telephone, cellular phone and pager service and usage policy.**
- 147.04 Internet access and e-mail acceptable use policy.**
- 147.05 Credit card policy.**
- 147.06 Drug free workplace.**

CROSS REFERENCES

Welfare - see Ohio Const., Art. II, Sec. 34
 Workers' 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
 Public Employees Retirement System - see Ohio R.C. Ch. 145
 Expenses for attendance at conference or convention - see Ohio R.C. 733.79
 Strikes by public employees - see Ohio R.C. Ch. 4117
 Vacation credit - see Ohio R.C. 9.44
 Ethics - see Ohio R.C. Ch. 102

147.01 EXPENSE REIMBURSEMENT.

All incurred expenses, such as school fees, mileage, lodging, meals, parking fees, etc., shall be reimbursed in the following manner:

- (a) School Fees. Will be reimbursed in entirety upon completion when authorized in advance by the Department Head and Council.
- (b) Mileage. Will be reimbursed at an amount per mile, as determined by the Internal Revenue Service when authorized in advance by the Department Head and Council. Village owned vehicles shall be used when available rather than privately owned vehicles which necessitates the payment of mileage.
- (c) Lodging. Will be reimbursed when authorized in advance by Council. Unless a conference is designated at a specific hotel or motel, lodging shall be reserved at a facility with "moderate" rates. No special fees for room extras such as waterbeds, oversized rooms, suites, etc., shall be deemed eligible for reimbursement.
- (d) Parking Fees. Will be reimbursed at level of cost incurred. The employee should use discretion in utilizing the most economic parking facilities that are located a reasonable distance from meeting point.
- (e) Other Transportation Fees. Such as airline rates, bus fares, etc., shall be reimbursed when authorized in advance by the Department Head and Council. The employee should use discretion in securing the most economic transportation means possible. (Res. 1991-28. Passed 12-9-91.)
- (f) Meals. Will be reimbursed during authorized travel at a per diem rate per individual not to exceed fifty dollars (\$50.00), including tips. Tips, being recognized as a common expense associated with restaurant dining shall be authorized at a rate not to exceed eighteen percent (18%) of the bill subtotal, excluding sales tax. Alcoholic beverages are not a reimbursable expense and therefore, not permitted as part of the dining bill. The per diem rate is a maximum limit on meal reimbursement and does not need to be met or entitle the employee to be reimbursed for any amount not actually incurred.

(Ord. 2013-20. Passed 7-22-13.)

- (g) All reimbursable expenses must be authorized in advance and all receipts must be provided to the Village for the employee to receive reimbursement.

(Ord. 2008-59. Passed 10-13-08.)

147.02 WORKPLACE HEALTH AND SAFETY POLICY.

(a) Compliance Official. The Village Mayor is responsible for compliance with OSHA, whose duties shall include that of monitoring compliance and that of safety officer.

- (b) Mayor's Duties. The responsibilities of the Mayor as to monitoring compliance include the following:

- (1) Remaining current on Ohio Bureau of Workers' Compensation Public Employment Risk Reduction Program (PERRP) regulations and company responsibilities;
- (2) Making sure all Ohio Bureau of Workers' Compensation Public Employment Risk Reduction Program (PERRP) records are properly maintained;
- (3) Assisting and evaluating employees for safety committee;
- (4) Monitoring activity of the safety committee;
- (5) Reporting to the Department Heads regulation changes, needed policy changes, safety problems that need attention, and activities of the safety committee; and
- (6) Fulfilling an overall duty to keep the Department Heads current about OSHA matters.

- (c) Purpose. The purpose of the safety committee is to prevent employee accidents by:

- (1) Making safety inspections to discover unsafe physical conditions or employee practices; and
- (2) Reviewing results of inspections and investigations at safety committee meetings for the purpose of making specific recommendations.

- (d) Members. Safety committee members are:

- (1) Selected by the Mayor, Village Council and Department Heads;
- (2) Required to serve as committee members for one calendar year; and
- (3) Selected to represent specified areas.

- (e) Safety Committee Duties. Safety committee members' responsibilities include the following:

- (1) Becoming familiar with Ohio Bureau of Workers' Compensation Public Employment Risk Reduction Program (PERRP) laws and regulations;
- (2) Constantly monitoring assigned areas for Ohio Bureau of Workers' Compensation Public Employment Risk Reduction Program (PERRP) hazards;
- (3) Correcting hazards found, noting them in Ohio Bureau of Workers' Compensation Public Employment Risk Reduction Program (PERRP) files and reporting them at the next safety meeting;
- (4) Reporting to the Mayor any hazards they cannot handle, making notations in their manuals, and reporting them at the next safety meeting;
- (5) Making inspections as required; and
- (6) Keeping Ohio Bureau of Workers' Compensation Public Employment Risk Reduction Program (PERRP) manuals current.

(f) Safety Committee Meetings.

- (1) Will be scheduled by the Mayor;
- (2) Will include a representative from each work area and may include some invited guests; and
- (3) Will be used to consider reports of status of old business, to evaluate reports made by the company nurse, to determine if accidents could have been prevented, and to consider reports on new areas needing attention.

(g) OSHA Records and Reports.

- (1) Reports will be completed and maintained by the Village of Carrollton, Ohio, as required by Ohio Bureau of Workers' Compensation Public Employment Risk Reduction Program (PERRP), on forms 101 and 200.
- (2) Every time there is an Ohio Bureau of Workers' Compensation Public Employment Risk Reduction Program (PERRP) accident report completed, the Mayor will send a report-of-accident investigation form to the supervisor of the employee who had the accident and will ask the supervisor to review the situation and to prevent future accidents.
- (3) Ohio Bureau of Workers' Compensation Public Employment Risk Reduction Program (PERRP) posters are located in all work areas, which are periodically inspected to ensure their display.

(h) Safety Committee Inspections.

- (1) Regularly each June, an overall inspection is conducted of the entire premises;
- (2) Periodically, the Mayor will request special inspections, more limited, for a special need;
- (3) Safety members are continually alert for safety hazards.

(i) Reporting and Alleviating Hazards.

- (1) All safety hazards reports are made to the Mayor and Safety Committee;
- (2) Corrective action is expected within fifteen days;
- (3) Any problems that cannot be corrected will be referred to the personnel manager.

(j) Manuals.

- (1) Every safety committee member will have access to any manual that includes Ohio Bureau of Workers' Compensation Public Employment Risk Reduction Program (PERRP) policies and procedures and committee meeting minutes;
- (2) Manuals should be kept current. At the end of the member's term on the committee, all materials these will be transferred to the member's replacement.

(k) Log of Safety Hazards.

- (1) The Mayor will maintain a log of safety hazards. There will be brief descriptions of each hazard, to whom it was referred for action, the date action was completed and any comments.
- (2) Whenever an Ohio Bureau of Workers' Compensation Public Employment Risk Reduction Program (PERRP) compliance officer arrives, the officer should be referred to the Mayor's office. The Mayor will be contacted.

(l) Safety Work Rules. Safety rules are communicated to workers through supervisors, bulletin boards, employee handbooks, and other publications. They also may be stressed in regular safety meetings and during orientation programs for new employees.

(Res. 1996-10. Passed 6-10-96; Ord. 2008-22. Passed 5-12-08.)

147.03 TELEPHONE, CELLULAR PHONE AND PAGER SERVICE AND USAGE POLICY.

(a) Purpose. This policy states the official guidelines for acquisition and usage of the Village's communications equipment and services and provides the framework for proper usage of Village issued telephones, cellular phones and pagers. The framework's flexibility enables officials and employees to provide the best service to the public while limiting public expense. While occasional personal use is permitted, employees should make every effort to avoid using cellular phones, pagers and desk/wall, cordless phones for personal calls.

(b) Policy Statement. Village telephones, cellular phones and pagers are provided to Village officials, appointees and employees who by nature of their job have a routine and continuing business need for use on official Village business. The Village expects appropriate and responsible use of Village communication equipment. Elected officials, appointees and department superintendents are expected to ensure that:

- (1) The need for each item of Village-owned communication equipment and services including but not limited to telephones, cellular phones, and pagers are clearly justified for Village business purposes;
- (2) Alternative solutions for work production and communications have been considered;
- (3) Employees provided with Village communication equipment and services understand the purpose and limitation of usage;
- (4) Equipment usage account billings outlining details of usage are received and reviewed for conformance with this policy;
- (5) Employees reimburse the Village for non-business use if required by this policy;
- (6) Use of a Village equipment usage account is terminated when no longer justified by business requirements or when the employee has by actions demonstrated a disregard for the limitation of this policy.

Employees, who by the nature of their job do not have a routine and continuing business need for cellular equipment but on occasion need to use their personal cellular phone for critical Village business, may be approved for reimbursement. Reimbursement will be made not more than one

(1) time per month for business use of a personal equipment usage account. The amount of reimbursement will be limited to the lesser of the actual amount of business phone calls or the amount of the monthly Village rate for an additional cellular phone added to the existing contract. A copy of the personal invoice with the business calls highlighted must be submitted with a requisition for reimbursement.

(c) Definitions.

- (1) Telephone: Any Village issued desk, wall or cordless phone connected to the Village telephone equipment system and charged to the Village.
- (2) Cellular equipment: Any Village provided cellular telephone also known as wireless telephones which transmit communications via tower antennas, cellular data transmissions/receipt equipment and radio-cellular telephones and any accessories for such owned by the Village.
- (3) Pagers/Beepers: A small radio receiver device that when activated and dialed transmits a signal that alerts the person carrying the device.
- (4) Base monthly charge: The minimum charge including local usage fees, taxes, franchise fees and other similar costs for one month of service through an equipment usage account.
- (5) Equipment usage account: A contract or service agreement by a vendor to provide cellular telecommunication service to a specific item of cellular equipment.

(d) Coverage. All users of the Village of Carrollton's telecommunication system.

(e) Procedures.

- (1) Cellular phones are provided based on authorization of the Mayor and Council to the following Village employees for use for public business in the interest of the citizens of the Village of Carrollton:

Mayor, Police Chief, Water/Sewer Department Superintendent, Street Department Superintendent and two police cruisers.

Pagers will be provided based on authorization of the Mayor and Council and shall be reviewed from year to year.

- (2) The Mayor shall establish a system to regularly review users so that designated employees demonstrate a need for cellular phones and pagers to increase efficiency and effectiveness in serving the public.
- (3) The Mayor shall establish a system where the Village Administrator and/or the Chief Fiscal Officer reviews as appropriate the cellular phone bills to ensure their use in accordance with this section.
- (4) Since the contract with the service provider has a limited amount of share time, employees and officials are cautioned to exercise efficiency and caution with cellular phone usage to prevent costly overages in the time parameters allotted. Each cellular phone has 200 allocated free minutes per month. However, should an individual cellular phone included in the contract not use its allocated share it may be used by another cellular phone as long as the phone using over their allocated minutes does not incur additional charges to the Village.
- (5) Employees assigned cellular phones shall reimburse the Village for any personal calls where those calls cause the Village's bill for that phone to be increased as a consequence of exceeding allocated free minutes on the plan, roaming charges, long distance charges, and any other charges above and beyond the regular monthly service charge for such phone. Personal use of a cell phone is not prohibited but use exceeding de minimus use or that causes additional costs above and beyond the regular monthly service charge shall be reimbursed to the Village by the employee.
- (6) Employees must safeguard any cellular and pager equipment in their possession. Employees shall not allow an unauthorized user access to any Village owned communication equipment except in an emergency situation. The loss of any cellular or pager equipment must be reported to the Village Administrator or Chief Fiscal Officer immediately. If theft is suspected, the police should also be notified immediately.
- (7) Employees shall exercise extreme caution when driving and only use a cell phone when the vehicle is parked, unless utilizing a "hands-free" speakerphone. If your cell phone rings while driving, allow your voicemail to take the message and retrieve the message when the vehicle is safely parked.
- (8) Employees shall limit all cellular calls to no more than ten (10) minutes. Calls over the ten (10) minute limit shall be documented and justification will be required.

Knowingly or intentionally violating any provision contained herein shall be grounds for disciplinary action which may include termination of employment.

(f) Acknowledgment. As an employee of the Village of Carrollton, I have read and understand the Village of Carrollton's Policy on telephones, cellular phone and pagers acceptable use. Further, that I am aware that any violation of this policy may subject me to disciplinary action, up to and including discharge from employment.

Name Supervisor/Superintendent

Signature of Employee Date

(Ord. 2005-07. Passed 7-11-05.)

147.04 INTERNET ACCESS AND E-MAIL ACCEPTABLE USE POLICY.

(a) Purpose. To define the proper use of electronic mail (e-mail) and Internet services at the Village of Carrollton.

(b) Policy. The Village of Carrollton is committed to providing an environment that encourages the use of computers and electronic information as essential tools to support the Village of Carrollton's business and improving our service to the public. It is the responsibility of each employee to ensure that this technology is used for proper business purposes, in a manner that does not compromise the confidentiality of proprietary or other sensitive information, and to use the e-mail and access to the Internet in a productive manner.

(c) Coverage. All users of the Village of Carrollton's computer systems.

(d) Passwords. Computer passwords if selected by the employee/authorized user must be provided to the department supervisor if a password has not been assigned by the department supervisor.

(e) E-mail Procedures.

- (1) All e-mail correspondence is the property of the Village of Carrollton and is primarily for business-related purposes only. E-mail communications are considered public records subject to disclosure to the public pursuant to the Ohio Public Record's Act.
- (2) Employee e-mail communications are not considered private or confidential despite any such designation either by the sender or the recipient.
- (3) Messages sent to recipients outside the Village of Carrollton, if sent over the Internet and not encrypted, are not secure. Encryption requires prior company approval.
- (4) The Village of Carrollton reserves the right to inspect the e-mail system, including an employee's mailbox at its discretion in the ordinary course of business in order to assure compliance with this policy. Please note that in certain situations, the Village of Carrollton may access and disclose messages sent over its e-mail system.
- (5) The existence of passwords and "message delete" functions do not restrict or eliminate the Village of Carrollton's ability or right to access electronic communications. The delete function does not eliminate the message from the system.
- (6) Employees shall not share an e-mail password, provide e-mail access to an unauthorized user or access another user's e-mail box without authorization of the Mayor and/or appointing authority.
- (7) Employees shall not post, display or make easily available any access.
- (8) Offensive, demeaning or disruptive messages are prohibited. This includes, but is not limited to, messages that are inconsistent with Employer's policies concerning "Equal Employment Opportunity" and "Sexual Harassment and Other Unlawful Harassment".
- (9) This policy supersedes all prior company policies.

Any employee who violates this policy shall be subject to discipline, up to and including discharge.

(f) Internet Procedures.

- (1) The Village of Carrollton's network including its connection to the Internet, is to be used primarily for business-related purpose. Any unauthorized use of the Internet is strictly prohibited. Unauthorized use includes, but is not limited to: connecting, posting or downloading pornographic material; engaging in computer "hacking" and other related activities; attempting to disable or compromise the security of information contained on the Village of Carrollton's computers.
- (2) The Village of Carrollton reserves the right to inspect any and all files stored on computers or other electronic devices which are the property of the Village of Carrollton in order to assure compliance with this policy. Employees have no personal privacy right in any matter created, received, stored in or sent from any Village computer system which are the property of the

Village of Carrollton.

- (3) Because postings placed on the Internet may display the Village of Carrollton's address, make certain before posting information on the Internet that the information reflects the standards and policies of the Village of Carrollton. Under no circumstances shall information of a confidential, sensitive or otherwise proprietary nature be placed on the Internet.
- (4) Subscriptions to news groups and mailing lists are permitted when the subscription is for a work-related purpose. Any other subscriptions are prohibited.
- (5) Information posted or viewed on the Internet may constitute published material. Therefore, reproduction of information posted or otherwise available over the Internet may be done only by express permission from the author or copyright holder.
- (6) Unless the prior approval of management has been obtained, users may not establish Internet or other external network connections that could allow unauthorized persons to gain access to the Village of Carrollton's systems and information. These connections include the establishment of hosts with public modem dial-ins, World Wide Web home pages and File Transfer Protocol (FTP).
- (7) All files downloaded from the Internet must be checked for possible computer viruses and have approval from the employee's direct supervisor. Virus-checking software must be current prior to downloading anything from the internet.
- (8) Offensive, demeaning or disruptive messages are prohibited. This includes, but is not limited to messages that are inconsistent with the Village of Carrollton's policies concerning "Equal Employment Opportunity" and "Sexual Harassment and Other Unlawful Harassment."
- (9) No employee may use the Internet for operating a business for personal gain, sending chain letters, soliciting money for religious or political causes, or any other purpose that interferes with normal Village business activities.
- (10) Each employee using Village electronic communications facilities shall identify himself or herself honestly, accurately and completely at all times.
- (11) No employee shall grant anyone who is not an employee of the Village access to Village electronic communications facilities.
- (12) The provisions of this section shall not apply to the Village Solicitor or members of the Police Department when engaged in legitimate law enforcement activities which, due to their nature, may require Internet and e-mail communications which would otherwise violate the provisions of this policy.

Any employee who violates this policy shall be subject to discipline, up to and including discharge.

(g) Acknowledgment. As an employee of the Village of Carrollton, I understand that the confidentiality and protection of the Village of Carrollton's information is of the utmost importance. I have read and understand the Village of Carrollton's Policy on acceptable use of e-mail and Internet access.

If I receive or select a password of my choice authorized by the department supervisor for access to e-mail, the Internet or any other system of electronically stored computer information, I will use it only for authorized purposes. I agree not to use a code, access a file or retrieve any stored communications other than where explicitly authorized unless there has been prior clearance by an authorized representative of the Village of Carrollton. I will notify my supervisor immediately if I believe that another person may have unauthorized access to my password.

I understand that all information stored in, transmitted or received through the Village of Carrollton's systems of printed or computer information is the property of the Village of Carrollton and is to be used only for job-related purposes. I further understand that authorized representatives of the Village of Carrollton will monitor the use of the Village of Carrollton's systems of printed or computer information from time to time to ensure that such use is consistent with the Village of Carrollton's policies and interests. Further, I am aware that use of a Village of Carrollton provided password or code does not in any way restrict the Village of Carrollton's right or ability to access electronic communications.

I am aware that any violation of the Village of Carrollton's e-mail or Internet Access Policy may subject me to disciplinary action, up to and including discharge from employment.

Name Mayor

Signature of Employee Supervisor/Superintendent

Date

(Ord. 2005-08. Passed 7-11-05.)

147.05 CREDIT CARD POLICY.

(a) Purpose.

- (1) This policy establishes an orderly process for the authorization, handling and use of the Village of Carrollton credit card (purchasing card). This policy is applicable to all Village elected and appointed offices and departments. It applies to all purchases and purchase-related documents prepared or processed by the Village departments regardless of the source of funds. The responsibilities, authorities and contracts set forth in this policy and related policies and procedures must be adhered to by all Village of Carrollton elected and appointed officials as well as all departments. The primary purpose of the credit card (purchasing card) system is for those vendors that desire immediate payment without issuing a business charge account or for seldom used vendors.

- (2) These procedures apply to the Village of Carrollton credit cards only. The Mayor and/or Clerk-Treasurer may grant exemptions and/or exceptions.

(b) Policy Statement. To promote operational efficiency and to simplify our internal ordering process for purchase of goods and services, the Village of Carrollton has opted to use a credit card (purchasing card). The credit card has been established to provide a convenient, efficient means to purchase commodities and services from vendors. The credit card is intended only for Village business transactions. This program is designed to delegate authority and responsibility to purchase items directly for the departments; however a requisition and purchase order to the Banking Company issuing the credit card is still required. Each department is responsible for managing its cardholder accounts in a manner that conforms to this policy and guidelines established by the Village of Carrollton. A number of unique controls have been developed for the credit card purchasing program that does not exist in a traditional credit card environment. These controls ensure that the cards can be used only for specific monthly dollar limits. In addition, each cardholder is required to certify all purchases before the bill is submitted for payment.

(c) Definitions.

- (1) Approving Official - Elected/appointed official or department superintendent responsible for certifying credit card charges for official Village business.
- (2) Cardholder - Elected/appointed officials or employees of the Village of Carrollton who is issued a card and who has authority to use it for

Village business.

- (3) Eligible Goods - All commodities and capital items that cost less than \$2000.00 and sufficient funds have been appropriated except:
Worker compensation purchases
- (4) Credit Card (Purchasing Card) - a credit card issued for official Village business.
- (5) Workers Compensation Purchase - Any medical service, treatment or equipment related to an on-the-job injury.

(d) Procedures.

(1) The Card.

A. The purchasing card is a credit card, similar to a personal credit card, which authorizes a cardholder to buy eligible goods and services. The card is specifically designed showing the name of the Village of Carrollton Business Card on it to avoid being mistaken for a personal credit card. The card is subject to existing Village purchasing policies.

B. The purchasing card (credit card) may be used for making Village purchases of \$2,000 or less. The master credit card will have a higher limit and will be issued in the name of the Clerk-Treasurer. Higher purchases may only be made upon authorization of the Clerk-Treasurer and/or the Mayor after determining there are sufficient funds appropriated to cover said higher purchases. The objectives in using the purchase card are to expedite procurement and reduce purchasing and related payment paperwork by reducing the number of purchase order transactions for eligible purchases and in use for traveling purposes. Under no circumstances is the purchasing card to be used for personal purchases.

(2) How to obtain the card. The master credit card will be issued to the Clerk- Treasurer with a limit to be established by the issuing banking institution. Additional cards will be issued having a credit limit of \$2,000.00 to the Village Administrator and those employees designated by their superintendents, which will be at least one employee or superintendent per department. All credit card account numbers will be on file in the office of the Clerk-Treasurer, who will have the authority to close the account upon termination of the cardholder.

(3) Cardholder. The cardholder is the individual to whom the card is issued. The purchase card bears the cardholder's name and may only be used by the cardholder. No other person is authorized to use the card. Cardholders may purchase eligible goods and services within their authority, as required by the Village, subject to funds availability. The cardholder is responsible for all purchases made with the card. All purchases that will be paid using the card must comply with the Village of Carrollton's purchasing resolutions, policies and department policies.

(4) How to use the purchase card. The same basic procedures are followed for mail and phone order purchases; although the supplier may request additional information such as the cardholder's shipping address.

A. Over-the-Counter Purchases. Although the process may vary slightly, the following steps give a general overview of how the purchase card works. A cardholder using the purchase card should:

1. Identify the purchase needed and determine funds availability.
2. Determine if the purchase is within their pre-approved purchase limit. If yes, proceed to the next step. If no, check, with their supervisor or the chief financial officer on how to proceed.
3. Purchase goods/services. Provide merchant with the purchase card. Inform the merchant that the purchase is for "official Village business" and is not subject to state or local sales tax. Provide a sales tax certificate of exemption is required by merchant.
4. Submit a completed requisition dated the same day as the purchase and submit to accounting office for purchase order as soon as possible. Emergency purchases should be indicated on the requisition as a "Then and Now" purchase.
5. Forward receipt of the accounting office.

B. Telephone orders. An employee using the purchase card to order by telephone should:

1. Identify the purchase needed and determine funds availability.
2. Determine if the purchase amount is within the pre-approved purchase limit. If yes, proceed to the next step. If no, check with their supervisor or the chief financial officer for details on how to proceed.
3. Contact the merchant and place the order.
4. Purchase goods/services. Inform the merchant that the purchase is for "official Village business" and is not subject to state or local sales tax. Provide merchant with the card number and expiration date.
5. Relay all pertinent information to supplier, (e.g. Cardholder's name, shipping address, etc.)
6. Submit a completed requisition to accounting office on the same date or as soon as possible with the amount of purchases.
7. Inspect and verify order accuracy, quality, and price when merchandise arrives.
8. Retain shipping documents and receipts received with the merchandise.
9. Submit billing documents to the accounting office.

C. Internet Orders.

1. Identify the purchase needed and determine funds availability.
2. Determine if the purchase amount is within the pre-approved purchase limit. If yes, proceed to the next step. If no, check with their supervisor or the chief financial officer for details on how to proceed.
3. Locate the merchant's web site and place the order.
4. Purchase goods/services. Enter card number and expiration date. Some web sites will recognize that the purchase is tax exempt. If not, indicate that the purchase is tax exempt. Note that the cardholder should check to see if the web site they are accessing is secure before entering their purchase card account number. Check the Internet browser software and any information posted on the web site being accessed for more information regarding the level of security provided.
5. Relay all pertinent information to supplier (e.g. Cardholder name, shipping date, etc.) Note: If downloading a purchased product from the Internet, print out the electronic confirmation and include it with the transaction documentation.
6. Submit a completed requisition to the accounting office on the same date or as soon as possible with the amount of purchase and identify fund being charged.
7. Inspect and verify order accuracy, quality and price when merchandise arrives.
8. Retain shipping documents received with merchandise.
9. Submit billing documents to the accounting office.

(5) Tax Exemption. Charges for most purchased items or services that are billed directly to the Village of Carrollton are exempt from sales tax. For large purchases where the merchant refuses to waive the tax, the cardholder can present a state tax exemption form. Contact the accounts payable office for a copy of the tax exemption.

(6) Cardholder Responsibilities.

- A. Purchasing resolutions, policies and procedures place upon the cardholder direct responsibility for the proper and lawful execution of purchasing actions. No employee of the Village of Carrollton has authority to issue instruction or approve a procedure that is in direct violation with the law or Village's resolutions, policies or procedures. Any act exceeding that individual's authority is no longer an act of the Village but becomes a personal responsibility. This may include personal financial responsibility for the purchase and consideration of disciplinary action up to and including removal from position and possible criminal prosecution.
- B. All employees must maintain the highest standard of conduct. Any conflict of interest or appearance thereof between Village responsibilities and personal lives must be avoided.
- C. Cardholder responsibilities are to:
 1. Make eligible purchases within authorized spending limits and funds availability. Use the card only for purchasing items in accordance with Village policies.
 2. The cardholder must first inform the merchant that the purchase is for "official Village business" and is not subject to state or local sales tax. For large purchases where the merchant refused to waive the tax, the cardholder can present a state tax exemption form. Cardholders can get a copy of the form from the accounting office.
 3. Maintain purchase cards in a secure fashion and prevent unauthorized charges to the account.
 4. Maintain adequate documentation of all purchases. This responsibility includes documentation of funds availability, receipts, packing lists, invoices, etc.
 5. Give purchase documentation to the accounting office in a timely manner to ensure prompt payment.
 6. Notify the Department Superintendent or the Clerk- Treasurer immediately if the card is lost or stolen.
- (7) Card security. The cardholder is responsible for safeguarding the purchase card at all times. The cardholder should never allow anyone else to use the card or account number and should never use the card to procure personal items.
- (8) Lots/stolen cards. When a purchase card is lost or stolen, the cardholder should contact the Department Superintendent or the Clerk-Treasurer to report the lost/stolen card. Contact should be immediate so that the highest level of detail regarding account activity leading up to the lost/stolen date can be provided.
- (9) Separation of cardholder. Prior to separation from the cardholder's department or assignment to another function that does not require cardholder authority, the cardholder will surrender the card to the Clerk- Treasurer who will destroy it and notify the banking company forthwith. The cardholder will review with the Department Superintendent the status of any unreconciled, questionable, partially approved, unresolved, and disputed transactions, and identify any supplies and/or services which have been ordered but not yet received, so appropriate action can be taken to complete these activities.
- (10) Purchase card changes. There may be occasions when the information about the cardholder in the bank's master file must be changed (e.g., address change, etc.) the Clerk-Treasurer or his/her staff will make the appropriate change.
- (11) Card misuse/fraud. Misuse of the purchase card will require the purchase card to be withdrawn from the cardholder. Disciplinary actions may be taken against the cardholder. The cardholder may be liable for payment of the purchase.
- (12) Competition. Purchases within the dollar threshold can be awarded without soliciting competitive price quotations if the price is reasonable. Such purchases must be distributed equitably among qualified suppliers. When practicable, a quotation should be solicited from other than the previous supplier prior to placing a repeat order. The administrative cost of verifying the reasonableness of the price of purchases not in excess of \$2,000 may more than offset potential savings in detecting instances of over pricing. Therefore, actions to verify the reasonableness of the price need to be taken only when:
 - A. Information indicates that the price may not be reasonable (e.g. comparison to previous price paid, personal knowledge of the item involved, comparison to similar items).
 - B. Purchasing a supply or service for which no comparable pricing information is readily available (e.g., an item that is not the same or similar to other items recently purchased).
- (e) Acknowledgment. As an employee of the Village of Carrollton, I have read and understand the Village of Carrollton's Policy on credit cards (purchasing cards). Further, that I am aware that any violation of this policy may subject me to disciplinary action, up to and including discharge from employment and possible criminal prosecution.

Name Supervisor/Superintendent

Signature of Employee Date

(Ord. 2005-9. Passed 7-11-05; Ord. 2008-22. Passed 5-12-08.)

147.06 DRUG FREE WORKPLACE.

EDITOR'S NOTE: Pursuant to Ordinance Number 2007-60, passed December 10, 2007, Council has adopted and approved a Drug Free Workplace Policy and Procedure Manual for Village employees. Copies are on file with the Clerk-Treasurer.

CHAPTER 149

Identity Theft Policy

149.01 Adoption.

CROSS REFERENCES

Theft and fraud - see GEN. OFF. Ch. 545

149.01 ADOPTION.

The Identity Theft Policy of the Village attached to original Ordinance 2009-35 as Exhibit A and incorporated herein as if fully rewritten is hereby approved and adopted.

(Ord. 2009-35. Passed 5-11-09.)

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 fifty dollars (\$150.00). 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 law 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 fifty dollars (\$150.00) 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 - Taxation

Chap. 183. Income Tax Effective January 1, 2016.

Chap. 191. Hotel Tax.

CHAPTER 183

Income Tax Effective January 1, 2016

EDITOR'S NOTE: Pursuant to Ordinance 2018-24 the Village has entered into an agreement with the Regional Income Tax Agency (RITA) for service relating to the administration and enforcement of the Income Tax.

- 183.01 Authority to levy tax; purposes of tax; rate.**
 - 183.011 Authority to levy tax.**
 - 183.012 Purposes of tax; rate.**
 - 183.013 Allocation of funds.**
 - 183.014 Statement of procedural history; state mandated changes to Municipal Income Tax.**
- 183.02 Effective date.**
- 183.03 Definitions.**
- 183.04 Income subject to tax for individuals.**
 - 183.041 Determining municipal taxable income for individuals.**
 - 183.042 Domicile.**
 - 183.043 Exemption for member or employee of General Assembly and certain judges.**
- 183.05 Collection at source.**
 - 183.051 Collection at source; withholding from qualifying wages.**
 - 183.052 Collection at source; occasional entrant.**
 - 183.053 Collection at source; casino and VLT.**
- 183.06 Income subject to net profit tax.**
 - 183.061 Determining municipal taxable income for taxpayers who are not individuals.**
 - 183.062 Net profit; income subject to net profit tax; alternative apportionment.**
 - 183.063 Consolidated Federal income tax return.**
 - 183.064 Tax credit for businesses that foster new jobs in Ohio.**
 - 183.065 Tax credits to foster job retention.**
- 183.07 Declaration of estimated tax.**
- 183.08 Credit for tax paid.**

- 183.081 Credit for tax paid to another municipality.
- 183.082 Refundable credit for qualifying loss.
- 183.083 Credit for person working in Joint Economic Development District or Zone.
- 183.084 Credit for tax beyond statute for obtaining refund.
- 183.09 Annual return.
- 183.091 Return and payment of tax.
- 183.092 Return and payment of tax; individuals serving in combat zone.
- 183.093 Use of Ohio Business Gateway; types of filings authorized.
- 183.094 Extension of time to file.
- 183.095 Amended returns.
- 183.096 Refunds.
- 183.10 Penalty, interest, fees and charges.
- 183.11 Audit.
- 183.12 Rounding.
- 183.13 Authority and powers of the Tax Administrator.
- 183.131 Authority of Tax Administrator; administrative powers of the Tax Administrator.
- 183.132 Authority of Tax Administrator; compromise of claim and payment over time.
- 183.133 Authority of Tax Administrator; right to examine.
- 183.134 Authority of Tax Administrator; requiring identifying information.
- 183.14 Confidentiality.
- 183.15 Fraud.
- 183.16 Opinion of the Tax Administrator.
- 183.17 Assessment; appeal based on presumption of delivery.
- 183.18 Local Board of Tax Review; appeal to Local Board of Tax Review.
- 183.19 Actions to recover; statute of limitations.
- 183.20 Adoption of rules.
- 183.21 Requirement of owners of rental or leased property to provide the Income Tax Administrator with information regarding tenants.
- 183.22 Filing net profit taxes; election to be subject to provisions of chapter.
- 183.23 Definitions.
- 183.24 Applicability; taxable situs; apportionment.
- 183.25 Information provided to tax administrators; confidentiality.
- 183.26 Filing of annual return; remittance; disposition of funds.
- 183.27 Electronic filing.
- 183.28 Consolidated returns.
- 183.29 Failure to pay tax.
- 183.30 Declaration of estimated taxes.
- 183.31 Additional penalties.
- 183.32 Assessments against taxpayer.
- 183.33 Refund applications.
- 183.34 Amended returns.
- 183.35 Examination of records and other documents and persons.
- 183.36 Credits.
- 183.37 Reckless violations; penalties.
- 183.97 Collection after termination of chapter.
- 183.98 Savings clause.
- 183.99 Violations; penalty.

CROSS REFERENCES

Payroll deductions - see Ohio R. C. 9.42
Municipal income taxes - see Ohio R.C. Ch. 718
State income tax - see Ohio R.C. Ch. 5747

183.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE.

183.011 AUTHORITY TO LEVY TAX.

(A) The tax on income and the withholding tax established by this Chapter 183 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 183 are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This Chapter is deemed to incorporate the provisions of ORC 718.

(B) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the municipal corporation, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein. (Ord. 2015-43. Passed 11-23-15.)

183.012 PURPOSES OF TAX; RATE.

(A) Purpose of Tax. 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 Village, there shall be, and is hereby levied, a tax on income subject to tax as hereinafter provided.

(B) Rate of Tax. An annual tax for the purposes specified in this chapter shall be imposed at the rate of one percent (1.0%) per annum on and after January 1, 2016.
(Ord. 2015-43. Passed 11-23-15.)

183.013 ALLOCATION OF FUNDS.

(A) The Municipal income tax funds provided under this Chapter are unallocated among the purposes set forth in Section 183.012(A). No additional tax has been directly allocated to any specific purpose.

(B) The funds collected under the provisions of this chapter, or such part thereof, as may be appropriated by the legislative authority of the

Municipality, shall be paid into the Carrollton Income Tax Fund and shall be applied as said legislative authority shall direct.
(Ord. 2015-43. Passed 11-23-15.)

183.014 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX.

(A) Significant and wide-ranging amendments to ORC 718 were enacted by Am Sub HB 5, passed by the 130th General Assembly, and signed by Governor Kasich on December 19, 2014, and H.B. 5 required municipal corporations to conform to and adopt the provisions of ORC 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.

(B) As mandated by H.B. 5, municipal income tax Ordinance 2015-43, effective January 1, 2016, comprehensively amends Chapter 181 in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality.

(Ord. 2015-43. Passed 11-23-15.)

183.02 EFFECTIVE DATE.

(A) Ordinance 2015-43, effective January 1, 2016, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 183 apply to taxable years beginning 2016 and succeeding taxable years.

(B) Ordinance 2015-43 does not repeal the existing sections of Chapter 181 for any taxable year prior to 2016, but rather amends Chapter 181 effective January 1, 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as that chapter and those ordinances and resolutions existed before January 1, 2016.

(Ord. 2015-43. Passed 11-23-15.)

183.03 DEFINITIONS.

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.

For purposes of this Section, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

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 division 23(D) of this section, 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 per cent of intangible income deducted under division (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 division (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 (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 (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 (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 per cent of the amount of the deduction otherwise allowed by division (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 division (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 division (1)(H) of this section.
 - (v) Nothing in division (1)(H)(iii)(a) of this section precludes a person from carrying forward, for 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 (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 (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 (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 (E)(3)(b) of Section 183.063 of this Chapter.

- (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 (E)(3)(b) of Section 183.063 of this Chapter.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (47)(B) of this section, is not a publicly traded partnership that has made the election described in division (23)(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 (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 any of the following:

- (i) 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;
- (ii) A full or partial denial of a refund request issued under Section 183.096 (B)(2) of this Chapter;
- (iii) A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under Section 183.062(B)(2) of this Chapter; or
- (iv) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under Section 183.062(B)(3) of this Chapter.
- (v) For purposes of division (2)(A)(i), (ii), (iii) and (iv) of this Section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to Section 183.18 of this Chapter, and shall have "ASSESSMENT" written in all capital letters at the top of such finding.

- (B) **"ASSESSMENT"** does not include notice(s) denying a request for refund issued under Section 183.096 (B)(3) of this Chapter, 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 (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 REVIEW"** has same meaning as "Local Board of Tax Review".

- (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) **"COMPENSATION"** means any form of remuneration paid to an employee for personal services.

- (9) **"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.

- (10) **"DOMICILE"** means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.

- (11) **"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) (i) Except as provided in division (11)(B)(ii) of this section, intangible income;

- (ii) A municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.

- (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 (11)(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 one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation 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) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for 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 (11)(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 (34) of this section;
 - (M) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.
 - (N) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive 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 of the municipal taxable income earned by individuals under eighteen years of age.
 - (P) (i) Except as provided in divisions (11)(P)(ii), (iii), and (iv) of this section, qualifying wages described in division (B)(1) or (E) of Section 183.052 of this Chapter 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 (11)(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 (11)(P)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (D)(2) of Section 183.052 of this Chapter
 - (iv) The exemption provided in division (11)(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 (B)(1) of Section 183.052 of this Chapter, 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 (E) of Section 183.052 of this Chapter, 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 (11)(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 (11)(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 twenty days in a taxable year.
 - (ii) The exemption provided in division (11)(Q)(i) of this section does not apply under either of the following circumstances:
 - (a) The individual's base of operation is located in the Municipality.
 - (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 (11)(Q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 183.052 of this Chapter.
 - (iii) Compensation to which division (11)(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 (11)(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 (11) 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.
 - (12) **"FORM 2106"** means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
 - (13) **"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, including a request for refund.
 - (14) **"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 division (23)(D) of this section.
 - (ii) For the purposes of division (14)(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 (14)(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 (14)(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' distributive shares of net profits from S corporations are subject to

tax in the municipal corporation as provided in division 11(N) or division 14(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 Municipality, 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. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in Section 183.081 of this Chapter.
- (E) INTENTIONALLY LEFT BLANK
- (15) **"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.
- (16) **"INTERNAL REVENUE CODE"** means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.
- (17) **"LIMITED LIABILITY COMPANY"** means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (18) **"LOCAL BOARD OF TAX REVIEW" and "BOARD OF TAX REVIEW"** means the entity created under Section 183.18 of this Chapter.
- (19) **"MUNICIPAL CORPORATION"** means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and 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.
- (20) (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 183.062 of this Chapter, 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 a Municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (20)(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 resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation's tax on or before December 31, 2013. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of section 718.03 of the Ohio Revised Code.
 - (iii) 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 Municipality under Section 183.062 of this Chapter, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.
- (B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (20)(A)(ii)(a) or (iii) 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. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which 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 that nonresident municipal corporation.
- (21) **"MUNICIPALITY"** means the Village of Carrollton.
- (22) **"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.
- (23) (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 this division, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (1)(H) of this section.
- (C) For the purposes of this chapter, and notwithstanding division (23)(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) (i) For purposes of this chapter, "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.
- (ii) For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(D) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.

- (iii) 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 in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (D)(iv) of this section.
- (iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (D)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.
- (v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (D) of this section applies to all municipal corporations in which an individual owner of the partnership resides.
- (vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.
- (24) **"NONRESIDENT"** means an individual that is not a resident of the Municipality.
- (25) **"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.
- (26) **"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.
- (27) **"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.
- (28) **"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.
- (29) **"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.
- (30) **"POSTAL SERVICE"** means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.
- (31) **"POSTMARK DATE," "DATE OF POSTMARK,"** and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery.
- (32) (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 Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality 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.
- (33) **"QUALIFIED MUNICIPAL CORPORATION"** means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by section 5747.01 of the Ohio Revised Code, as the income subject to tax for the purposes of imposing a municipal income tax.
- (34) **"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 (34)(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 (34)(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 of 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 (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.
- (35) **"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 per cent 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 per cent 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 (35)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent 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 (35)(A) to (C) of this section have been met.
- (36) **"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 per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.
- (37) **"RESIDENT"** means an individual who is domiciled in the Municipality as determined under Section 183.042 of this Chapter.
- (38) **"S CORPORATION"** means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (39) **"SCHEDULE C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (40) **"SCHEDULE E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (41) **"SCHEDULE F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (42) **"SINGLE MEMBER LIMITED LIABILITY COMPANY"** means a limited liability company that has one direct member.
- (43) **"SMALL EMPLOYER"** means any employer that had total revenue of less than five hundred thousand dollars 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; 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.
- (44) **"TAX ADMINISTRATOR"** means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:
- (A) A municipal corporation acting as the agent of another municipal corporation;
 - (B) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;
 - (C) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.
- (45) **"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.
- (46) **"TAXABLE YEAR"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (47) (A) **"TAXPAYER"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (47)(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 (L) of section 718.01 of the Ohio Revised Code 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 (47)(B)(i)(e) 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 four hundred thousand dollars.
- (48) **"TAXPAYERS' RIGHTS AND RESPONSIBILITIES"** means the rights provided to taxpayers in sections 718.11 , 718.12 , 718.19,

718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718 of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

(49) **"VIDEO LOTTERY TERMINAL"** has the same meaning as in section 3770.21 of the Ohio Revised Code.

(50) **"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. 2015-43. Passed 11-23-15.)

183.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS.

183.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS.

(A) "Municipal Taxable Income" for a resident of the Municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (20)(B) of Section 183.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" is defined in Section 183.03 (14) of this Chapter.

(i) "Qualifying Wages" is defined in Section 183.03(34).

(ii) "Net profit" is included in "income", and is defined in Section 183.03 (23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1) (H) of Section 183.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 183.062(E).

(iii) Section 183.03(14) provides the following: offsetting and net operating loss carryforward treatment in (14)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (14)(A) (iv).

(iv) "Pass Through Entity" is defined in Section 183.03(27).

(b) "Exempt Income" is defined in Section 183.03 (11) of this Chapter.

(c) Allowable employee business expense deduction is described in (20)(B) of Section 183.03 of this Chapter, and is subject to the limitations provided in that section.

(d) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 183.03 (32) of this Chapter

(B) "Municipal Taxable Income" for a nonresident of the Municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or situated to the Municipality as provided in Section 183.062 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 183.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" is defined in Section 183.03(14) of this Chapter.

(i) "Qualifying Wages" is defined in Section 183.03(34).

(ii) "Net profit" is included in "income", and is defined in Section 183.03(23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1) (H) of Section 183.03. "Net profit" for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.

(iii) "Pass Through Entity" is defined in Section 183.03(27).

(b) "Exempt Income" is defined in Section 183.03(11) of this Chapter.

(c) "Apportioned or situated to the Municipality as provided in Section 183.062 of this Chapter" includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 183.062(E).

(d) "Allowable employee business expense deduction" as described in (20)(B) of Section 183.03 of this Chapter, is subject to the limitations provided in that section. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.

(e) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 183.03(32) of this Chapter.

(Ord. 2015-43. Passed 11-23-15.)

183.042 DOMICILE.

(A) As used in this section:

(1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return.

(2) 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.

(3) An individual may rebut the presumption of domicile described in division (A)(1) 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.

(B) 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:

(1) The individual's domicile in other taxable years;

(2) The location at which the individual is registered to vote;

(3) The address on the individual's driver's license;

(4) 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;

(5) The location and value of abodes owned or leased by the individual;

(6) Declarations, written or oral, made by the individual regarding the individual's residency;

(7) The primary location at which the individual is employed.

(8) 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 or state where the educational institution is located;

- (9) 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. For purposes of this section, the State's contact period test or bright-line test and resulting determination have no bearing on municipal residency or domicile.

(C) All applicable factors are provided in Ohio Revised Code Section 718.012.

(Ord. 2015-43. Passed 11-23-15.)

183.043 EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL ASSEMBLY AND CERTAIN JUDGES.

(A) Only the municipal corporation of residence shall be permitted to levy a tax on the income of any member or employee of the Ohio General Assembly, including the Lieutenant Governor, whose income is received as a result of services rendered as such member or employee and is paid from appropriated funds of this state.

(B) Only the municipal corporation of residence and the city of Columbus shall levy a tax on the income of the Chief Justice or a Justice of the Supreme Court received as a result of services rendered as the Chief Justice or Justice. Only the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge.

(Ord. 2015-43. Passed 11-23-15.)

183.05 COLLECTION AT SOURCE.

183.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES.

(A) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under section 183.052 of this Chapter or division (D) or (F) of this section. 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.

(2) In addition to withholding the amounts required under division (A)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.

(B) (1) 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, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:

(a) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(b) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the fifteenth day of the month following the end of each calendar quarter.

(b) 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 municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, 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 two hundred dollars. Payment under division (B)(1)(b) of this section shall be made so that the payment is received by the Tax Administrator not later than fifteen days after the last day of each month.

(C) 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 Municipality as the return required of an 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, unless the Municipality requires all resident individual taxpayers to file a tax return under section 183.091 of this Chapter.

(D) An employer, agent of an employer, or other payer is not required to withhold municipal 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.

(E) (1) 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.

(2) 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.

(F) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal 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.

(G) 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.

(H) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing 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, the amount of tax withheld, if any, from each such employee's qualifying wage, the total amount of qualifying wages paid to such employee during the preceding calendar year, 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, 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, and other information as may be required by the Tax Administrator.

(I) 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.

(J) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees and constituting qualifying wages 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.

(K) A 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.

(Ord. 2015-43. Passed 11-23-15.)

183.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT.

(A) The following terms as used in this section:

- (1) "Employer" includes a person that is a related member to or of an employer.
- (2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
- (3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
- (4) "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.
- (5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.
- (6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. "Worksite location" does not include the home of an employee.
- (7) "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 in this state 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 in this state 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 (B)(1)(a) 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 deemed in accordance with division (B)(2) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

- (B) (1) Subject to divisions (C), (E), (F), and (G) of this section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:
- (a) The employee's principal place of work is located in the Municipality.
 - (b) 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 this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:
 - (i) The nature of the services are such that it will require more than twenty days of actual services to complete the services;
 - (ii) The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.
 - (c) 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 183.051 of this Chapter.
 - (d) 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 within the Municipality.
- (2) For the purposes of division (B)(1) of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation 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:
- (a) Traveling to the location at which the employee will first perform services for the employer for the day;
 - (b) Traveling from a location at which the employee was performing services for the employer to any other location;
 - (c) 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;
 - (d) Transporting or delivering property described in division (B)(2)(c) 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;

- (e) 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.
 - (C) If the principal place of work of an employee is located in a municipal corporation that imposes an income tax in accordance with this chapter, the exception from withholding requirements described in division (B)(1) 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 the municipal corporation in which the employee's principal place of work is located.
 - (D) (1) Except as provided in division (D)(2) of this section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty-day threshold described in division (B)(1) of this section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.
 - (2) An employer required to begin withholding tax for a municipal corporation under division (D)(1) of this section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.
 - (3) If an employer makes the election described in division (D)(2) of this section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.
 - (E) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an 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 municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Section 183.03 of this Chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.
 - (F) Divisions (B)(1) and (D) 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 183.051 of this Chapter.
 - (G) In the case of a person performing personal services at a petroleum refinery located in a municipal corporation that imposes a tax on income, an employer is not required to withhold municipal income tax on the qualifying wages of such a person if the person performs those services on twelve or fewer days in a calendar year, unless the principal place of work of the employer is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the person for services performed on those days and the person is not liable to that other municipal corporation for tax on the compensation paid for such services. For the purposes of this division, a petroleum refinery is a facility with a standard industrial classification code facility classification of 2911, petroleum refining.
- Notwithstanding division (D) of this section, if, during a calendar year, the number of days an individual performs personal services at a petroleum refinery exceeds twelve, the employer shall withhold tax for the municipal corporation for the first twelve days for which the employer paid qualifying wages to the individual and for all subsequent days in the calendar year on which the individual performed services at the refinery.

(Ord. 2015-43. Passed 11-23-15.)

183.053 COLLECTION AT SOURCE; CASINO AND VLT.

- (A) The Municipality shall require a casino facility or a casino operator, as defined in Section 6(C)(9) of Article XV, Ohio Constitution, and section 3772.01 of the Ohio Revised Code, respectively, or a lottery sales agent conducting video lottery terminals sales on behalf of the state to withhold and remit municipal income tax with respect to amounts other than qualifying wages as provided in this section.
- (B) If a person's winnings at a casino facility are an amount for which reporting to the internal revenue service of the amount is required by section 6041 of the Internal Revenue Code, as amended, the casino operator shall deduct and withhold municipal income tax from the person's winnings at the rate of the tax imposed by the municipal corporation in which the casino facility is located.
- (C) Amounts deducted and withheld by a casino operator are held in trust for the benefit of the municipal corporation to which the tax is owed.
 - (1) On or before the tenth day of each month, the casino operator shall file a return electronically with the Tax Administrator of the Municipality, providing the name, address, and social security number of the person from whose winnings amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the winnings from which each such amount was withheld, the type of casino gaming that resulted in such winnings, and any other information required by the Tax Administrator. With this return, the casino operator shall remit electronically to the Municipality all amounts deducted and withheld during the preceding month.
 - (2) Annually, on or before the thirty-first day of January, a casino operator shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the casino facility is located, indicating the total amount deducted and withheld during the preceding calendar year. The casino operator shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period that information shall be indicated on the annual return.
 - (3) Annually, on or before the thirty-first day of January, a casino operator shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted from the person's winnings during the preceding year. The casino operator shall provide to the Tax Administrator a copy of each information return issued under this division. The administrator may require that such copies be transmitted electronically.
 - (4) A casino operator that fails to file a return and remit the amounts deducted and withheld shall be personally liable for the amount withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.
 - (5) If a casino operator sells the casino facility or otherwise quits the casino business, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor shall withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld along with any penalties and interest thereon until the predecessor casino operator produces either of the following:
 - (a) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;
 - (b) A certificate from the Tax Administrator indicating that no amounts are due.
 If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

(6) The failure of a casino operator to deduct and withhold the required amount from a person's winnings does not relieve that person from liability for the municipal income tax with respect to those winnings.

(D) If a person's prize award from a video lottery terminal is an amount for which reporting to the internal revenue service is required by section 6041 of the Internal Revenue Code, as amended, the video lottery sales agent shall deduct and withhold municipal income tax from the person's prize award at the rate of the tax imposed by the municipal corporation in which the video lottery terminal facility is located.

(E) Amounts deducted and withheld by a video lottery sales agent are held in trust for the benefit of the municipal corporation to which the tax is owed.

(1) The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.

(2) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the Municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.

(3) A video lottery sales agent shall maintain a record of all receipts issued under division (E) of this section and shall make those records available to the Tax Administrator upon request. Such records shall be maintained in accordance with section 5747.17 of the Ohio Revised Code and any rules adopted pursuant thereto.

(4) Annually, on or before the thirty-first day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period that information shall be indicated on the annual return.

(5) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.

(6) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

(F) If a video lottery sales agent ceases to operate video lottery terminals, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor of the video lottery sales agent that purchases the video lottery terminals from the agent shall withhold an amount from the purchase money that is sufficient to cover the amounts deducted and withheld and any penalties and interest thereon until the predecessor video lottery sales agent operator produces either of the following:

(1) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;

(2) A certificate from the Tax Administrator indicating that no amounts are due.

If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

(G) The failure of a video lottery sales agent to deduct and withhold the required amount from a person's prize award does not relieve that person from liability for the municipal income tax with respect to that prize award.

(H) If a casino operator or lottery sales agent files a return late, fails to file a return, remits amounts deducted and withheld late, or fails to remit amounts deducted and withheld as required under this section, the Tax Administrator of a municipal corporation may impose the following applicable penalty:

(1) For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty per cent of the tax deducted and withheld;

(2) For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in section 5703.47 of the Ohio Revised Code.

(I) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of section 183.07 of this Chapter. This division applies only to the person for whom the amount is deducted and withheld.

(J) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section.
(Ord. 2015-43. Passed 11-23-15.)

183.06 INCOME SUBJECT TO NET PROFIT TAX.

183.061 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS.

"Municipal Taxable Income" for a taxpayer who is not an individual for the Municipality is calculated as follows:

(A) "Income" reduced by "Exempt Income" to the extent otherwise included in income, multiplied by apportionment, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(1) "Income" for a taxpayer that is not an individual means the "Net Profit" of the taxpayer.

(i) "Net Profit" for a person other than an individual is defined in Section 183.03(23).

(ii) "Adjusted Federal Taxable Income" is defined in Section 183.03(1) of this Chapter.

(2) "Exempt Income" is defined in Section 183.03(11) of this Chapter.

(3) "Apportionment" means the apportionment as determined by Section 183.062 of this Chapter.

(4) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 183.03 (32) of this Chapter.

(Ord. 2015-43. Passed 11-23-15.)

183.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT.

This section 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.

(A) 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:

(1) 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;

(2) 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 183.052 of this Chapter;

(3) 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.

(B) (1) If the apportionment factors described in division (A) 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:

(a) Separate accounting;

(b) The exclusion of one or more of the factors;

(c) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;

(d) A modification of one or more of the factors.

(2) 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 division (A) of Section 183.19 of this Chapter.

(3) A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of Section 183.19 of this Chapter.

(4) Nothing in division (B) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(C) As used in division (A)(2) 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:

(1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:

(a) The employer;

(b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;

(c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.

(2) 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;

(3) 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 (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a 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.

(D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:

(1) 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 a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:

(a) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.

(b) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.

(c) The property is shipped from a place within the municipal corporation 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.

(2) Gross receipts from the sale of services shall be situated to the municipal corporation to the extent that such services are performed in the municipal corporation.

(3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be situated to the municipal corporation.

(4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be situated to the municipal corporation.

(5) Gross receipts from rents and royalties from tangible personal property shall be situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

(E) 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 tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.

A municipal corporation 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.

- (F) (1) Except as provided in division (F)(2) of this section, 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 a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
- (2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 183.081 of this Chapter.
- (G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of Section 183.03 of this Chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.
- This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.
- (H) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) 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. 2015-43. Passed 11-23-15.)

183.063 CONSOLIDATED FEDERAL INCOME TAX RETURN.

(A) 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 (A)(1) of this section.
- (4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.
- (5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.

- (B) (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 municipal 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.
- (a) 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.
- (b) 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 (B)(2) of this section; or
- (c) 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 (B)(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 (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(C) 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 municipal 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 municipal corporation. A taxpayer that is required to file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal 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.

(D) A taxpayer shall prepare a consolidated municipal 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.

- (E) (1) Except as otherwise provided in divisions (E)(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 183.03(1) of this Chapter, 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 municipal income tax return shall make any adjustment otherwise required under division (1) of 183.03 of this Chapter 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 per cent 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 municipal 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 Section 183.062 of this Chapter, 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 Section 183.062 of this Chapter, 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 per cent 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 Section 183.062 of this Chapter, 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;
 - (b) The pass-through entity shall be subject to municipal 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.

(F) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 183.062 of this Chapter 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.

(G) Each corporation filing a consolidated municipal income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by a municipal corporation 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.

(H) Corporations and their affiliates that made an election or entered into an agreement with a municipal corporation before January 1, 2016, to file a consolidated or combined tax return with such municipal corporation 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. 2015-43. Passed 11-23-15.)

183.064 TAX CREDIT FOR BUSINESSES THAT FOSTER NEW JOBS IN OHIO.

The Municipality, by Ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer to foster job creation in the Municipality. If a credit is granted under this section, it shall be measured as a percentage of the new income tax revenue the Municipality derives from new employees of the taxpayer and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance granting a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit. (Ord. 2015- 43. Passed 11-23-15.)

183.065 TAX CREDITS TO FOSTER JOB RETENTION.

The Municipality, by Ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer for the purpose of fostering job retention in the Municipality. If a credit is granted under this section, it shall be measured as a percentage of the income tax revenue the Municipality derives from the retained employees of the taxpayer, and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance allowing such a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

(Ord. 2015-43. Passed 11-23-15.)

183.07 DECLARATION OF ESTIMATED TAX.

(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 a municipal corporation's income tax for the current taxable year.
- (2) "Tax liability" means the total taxes due to a municipal corporation 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 two hundred dollars. For the purposes of this section:

- (a) Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld 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.
- (c) A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.
- (d) Taxes withheld by a casino operator or by a lottery sales agent under section 718.031 of the Ohio Revised Code are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.

(2) Taxpayers filing joint returns shall file joint declarations of estimated taxes.

(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 183.091 of this Chapter or on or before the fifteenth day of the fourth month of the first taxable year 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 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 or Tax Administrator, 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 day of the fourth month after the beginning of the taxable year, twenty-two and one-half per cent of the tax liability for the taxable year;
 - (b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five per cent of the tax liability for the taxable year;
 - (c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half per cent of the tax liability for the taxable year;
 - (d) On or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the tax liability for the taxable year.
- (2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. 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. The amended declaration must be filed on the next applicable due date as outlined in (C)(1)(a) through (d) of this section.
- (3) On or before the fifteenth 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 183.091 of this Chapter.
 - (a) For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to division (G) of section 5747.08 of the Revised Code.
 - (b) For taxpayers who are not individuals, and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.
- (4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.
- (D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to section 183.10 of this Chapter 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 per cent 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 per cent 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 per cent 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 per cent 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 per cent 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 per cent 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 municipal corporation under Section 183.091 of this Chapter for that year.
 - (3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.
- (F) A Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

(Ord. 2015-43. Passed 11-23-15.)

183.08 CREDIT FOR TAX PAID.

183.081 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(A) Every individual resident taxpayer with Municipal Taxable Income as calculated in Section 183.041(A) earned for work done or services performed or rendered outside of the Village of Carrollton, if it be made to appear that he/she has paid a municipal income tax to another municipality on the same income taxable under this chapter, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by the taxpayer or on his/her behalf to such other municipality; provided, however, that the credit shall not exceed one-half of one percent (0.5%) on such income earned in such other municipality or municipalities where such tax is paid.

(B) The credit provided in division (A) of this section shall not be allowed unless the credit is claimed in a timely filed return or on a form acceptable to, and filed with the Tax Administrator, including any extension granted under Section 183.094. If the taxpayer fails, neglects or refuses to file such timely return or form, he/she shall not be entitled to such credit and shall be liable for the full amount of tax imposed by this chapter, together with such interest and penalties, both civil and criminal, as are imposed by this chapter.

(C) No such credit shall be given for any tax paid to a school district or a county not imposed by this chapter.

(Ord. 2015-43. Passed 11-23-15.)

183.082 REFUNDABLE CREDIT FOR QUALIFYING LOSS.

(A) As used in this section:

- (1) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.
 - (2) (a) Except as provided in division (A)(2)(b) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.
(b) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (A)(2)(a) of this section computed without regard to division (A)(2)(b) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.
(c) With respect to a 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.
 - (3) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. 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 municipal corporation each year with respect to the nonqualified deferred compensation plan.
- (B) (1) Except as provided in division (D) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.
- (2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.
 - (3) If a taxpayer has paid tax to more than one municipal corporation 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.
 - (4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.
- (C) (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.
- (2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.
- (D) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:
- (1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
 - (2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation. (Ord. 2015-43. Passed 11-23-15.)

183.083 CREDIT FOR PERSON WORKING IN JOINT ECONOMIC DEVELOPMENT DISTRICT OR ZONE.

A 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, pursuant to Section 183.081 of this Chapter. (Ord. 2015-43. Passed 11-23-15.)

183.084 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND.

(A) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on refunds as provided in Section 183.096 of this Chapter.

(B) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in section 183.096, the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.

(C) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Section 183.096 of this Chapter.

(D) Nothing in this section requires a Municipality to allow credit for tax paid to another municipal corporation if the Municipality has reduced credit for tax paid to another municipal corporation. Section 183.081 of this Chapter regarding any limitation on credit shall prevail. (Ord. 2015-43. Passed 11-23-15.)

183.09 ANNUAL RETURN.

183.091 RETURN AND PAYMENT OF TAX.

- (A) (1) An annual return with respect to the income tax levied on Municipal Taxable Income by the Municipality shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.
- (2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under subsection 183.051(C) 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 to the Municipality.

- (3) All resident individual taxpayers, 18 years of age and older, shall file an annual municipal income tax return with the Municipality, regardless of income or liability.
- (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 in accordance with this chapter, 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. Such duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the duly authorized agent, guardian, conservator, fiduciary, or other person.
- (D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust. Such fiduciary shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the fiduciary.
- (E) No municipal corporation shall deny spouses the ability to file a joint return.
- (F) (1) Each return required to be filed under this section 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, and 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) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only 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 or refund request, any other documentation necessary to support the refund request or 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) A taxpayer that is not an individual is required 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.
- (4) 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 or a portal provided by Municipality. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.
- (5) After a taxpayer files a tax return, the Tax Administrator shall 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.
- (6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.
- (G) (1) (a) Except as otherwise provided in this chapter, each individual income tax 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 or Tax Administrator.
- (b) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. 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 or Tax Administrator.
- (c) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.
- (2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality in accordance with this chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.
- (3) With respect to taxpayers to whom Section 183.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 183.092 of this Chapter, the provision in Section 183.092 of this Chapter prevails.
- (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 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) and (4) of this section.
- (I) This division shall not apply to payments required to be made under division (B)(1)(b) of Section 183.051 of this Chapter.
- (1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of

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) 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. For purposes of this section, "submitted the payment" means the date which the taxpayer has designated for the delivery of payment, which may or may not be the same date as the date the payment was initiated by the taxpayer.

(J) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in section 183.051 of this Chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient 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 section 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. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.

(L) The Tax Administrator of the Municipality shall accept for filing a generic form of any income tax return, report, or document required by the Municipality in accordance with this Chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Municipality or 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 or resolution governing the filing of returns, reports, or documents.

(M) When income tax returns, reports, or other documents require the signature of a tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.

(N) (1) As used in this division, "worksite location" has the same meaning as in section 183.052 of this chapter.

- (2) A person may notify a tax administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:

- (a) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksite location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this chapter. The tax administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this chapter.

- (b) The person no longer provides services in the municipal corporation, and does not expect to be subject to the municipal corporation's income tax for the taxable year.

The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

- (c) If a person submits an affidavit described in division (N)(2) of this section, the tax administrator shall not require the person to file any tax return for the taxable year unless the tax administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the tax administrator for the taxable year. Nothing in division (N) of this section prohibits the tax administrator from performing an audit of the person.

(Ord. 2015-43. Passed 11-23-15.)

183.092 RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE.

(A) 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 in accordance with this chapter during the period of the member's or civilian's duty service and for one hundred eighty 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.

- (B) (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 one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (B)(3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.

- (2) If the Tax Administrator ascertains 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 one hundred eighty-first day after the applicant's active duty or service terminates.

- (3) Taxes paid pursuant to a contract entered into under division (B)(1) of this section are not delinquent. The Tax Administrator shall not

require any payments of penalties or interest in connection with those taxes for the extension period.

(C) (1) Nothing in this division denies to any person described in this division the application of divisions (A) and (B) 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 the Municipality in accordance with this chapter. The length of any extension granted under division (C)(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 section, "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 the payment of which is extended in accordance with division (C)(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 (C)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(D) For each taxable year to which division (A), (B), or (C) of this section applies to a taxpayer, the provisions of divisions (B)(2) and (3) or (C) 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. (Ord. 2015-43. Passed 11-23-15.)

183.093 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED,

(A) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file any municipal income tax return or, 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.

(B) 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.

(C) Nothing in this section affects the due dates for filing employer withholding tax returns or deposit of any required tax.

(D) The use of the Ohio Business Gateway by municipal corporations, taxpayers, or other persons does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. The State of Ohio shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.

(E) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax. (Ord. 2015-43. Passed 11-23-15.)

183.094 EXTENSION OF TIME TO FILE.

(A) 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 a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

(B) Any taxpayer that qualifies for an automatic federal extension for a period other than six-months for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.

(C) 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 municipal income tax return. If the request is received by the tax administrator on or before the date the municipal income tax return is due, the tax administrator shall grant the taxpayer's requested extension.

(D) An extension of time to file under this chapter is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(E) If the State 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 a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return. (Ord. 2015-43. Passed 11-23-15.)

183.095 AMENDED RETURNS.

(A) (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the Municipality in accordance with this chapter must be altered.

(2) Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.

(3) 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, such amount need not accompany the amended return. Except as provided under division (B)(2) of this section, the amended return shall not 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 unless the applicable statute of limitations for civil actions or prosecutions under section 183.19 of this Chapter 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.

(C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (A)(2) of section 183.19 of this Chapter 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 ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (C)(2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only 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 183.096 of this Chapter. Except as set forth in division (C)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

- (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. (Ord. 2015-43. Passed 11-23-15.)

183.096 REFUNDS.

(A) Upon receipt of a request for a refund, the Tax Administrator of the Municipality, 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 Municipality:

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

(B) (1) Except as otherwise provided in this chapter, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and / or disallowance of undocumented credits or losses.

(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 (B)(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 183.18 of this Chapter.

(C) A request for a refund that is received after the last day for filing specified in division (B) 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.

(D) 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 ninety days after the final filing date of the annual return or ninety 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 division (A)(4) of Section 183.10 of this Chapter.

(E) As used in this section, "withholding tax" has the same meaning as in section 183.10 of this Chapter.

(Ord. 2015-43. Passed 11-23-15.)

183.10 PENALTY, INTEREST, FEES, AND CHARGES.

(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 such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.
- (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" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation 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 per cent, plus five per cent. 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 a Tax Administrator or municipal corporation 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 shall apply 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

for taxable years beginning 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, as adopted from time to time before January 1, 2016 of this Municipality.

(C) The Municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the Municipality 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.

- (1) Interest shall be imposed at the rate defined as "interest rate as described in division (A) of this section", per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.
- (2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely paid shall be imposed.
- (3) With respect to any unpaid withholding tax, a penalty equal to fifty percent of the amount not timely paid shall be imposed.
- (4) With respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars 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 a total of one hundred fifty dollars in assessed penalty for each failure to timely file a return.

(D) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.

(E) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

(F) The Tax Administrator and the Clerk-Treasurer may, in their sole discretion, abate or partially abate penalties or interest imposed under this section when they deem such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

(G) The Municipality shall 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. 2015-43. Passed 11-23-15.)

183.11 AUDIT.

(A) At or before the commencement of an audit, as defined in Section 183.03(3) of this Chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of 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 arising from the audit.

(Ord. 2015-43. Passed 11-23-15.)

183.12 ROUNDING.

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, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

(Ord. 2015-43. Passed 11-23-15.)

183.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR.

183.131 AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR.

The Tax Administrator has the authority to perform all duties and functions necessary and appropriate to implement the provisions of this Chapter, including without limitation:

- (A) Exercise all powers whatsoever of an inquisitorial 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; provided that 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 a municipal corporation income tax ordinance or resolution adopted in accordance with this chapter;
- (B) Appoint agents and prescribe their powers and duties;
- (C) 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;

- (D) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the Tax Administrator may investigate any claim of overpayment and make a written statement of the Tax Administrator's findings, and, if the Tax Administrator finds that there has been an overpayment, approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this chapter;
 - (E) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;
 - (F) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with section 183.062 of this Chapter;
 - (G) Make all tax findings, determinations, computations, assessments 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, redetermine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, redetermine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;
 - (H) Destroy any or all returns or other tax documents in the manner authorized by law;
 - (I) Enter into an agreement with a taxpayer to simplify the withholding obligations described in section 183.051 of this Chapter.
- (Ord. 2015-43. Passed 11-23-15.)

183.132 AUTHORITY OF TAX ADMINISTRATOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME.

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

(B) The Tax Administrator may do 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, upon such terms and conditions as the Tax Administrator may require.

(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 inure to the benefit of only the parties to the compromise or agreement, and shall not extinguish or otherwise affect the liability of any other person.

(E) (1) 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.

(2) The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment-over-time agreement.

(F) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment-over-time agreement.

(Ord. 2015-43. Passed 11-23-15.)

183.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE.

(A) The 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.

(B) 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 of a municipal corporation 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.

(C) 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.

(D) 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 and state income tax returns under this section shall fail to comply.

(Ord. 2015-43. Passed 11-23-15.)

183.134 AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION.

(A) The Tax Administrator may require 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.

(B) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty 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 183.10 of this Chapter, in addition to any applicable penalty described in section 183.99 of this Chapter.

(2) 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 (A) of this section within thirty 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 183.10 of this Chapter.

- (3) The penalties provided for under divisions (B)(1) and (2) 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 183.99 of this Chapter for a violation of 183.15 of this Chapter, and any other penalties that may be imposed by the Tax Administrator by law.

(Ord. 2015-43. Passed 11-23-15.)

183.14 CONFIDENTIALITY.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by ORC 718 or by the charter or ordinance of the Municipality 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 ORC 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the Municipality 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 State 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. 2015-43. Passed 11-23-15.)

183.15 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 municipal corporation 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. 2015-43. Passed 11-23-15.)

183.16 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 as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an "opinion of the Tax Administrator" and shall bind the Tax Administrator, in accordance with divisions (C), (G), and (H) of this section, provided all of the following conditions are satisfied:

- (1) The taxpayer's request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.
- (2) The request relates to a tax imposed by the Municipality in accordance with this Chapter.
- (3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

(C) An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the Tax Administrator's opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates:

- (1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;
- (2) The effective date of any amendment or enactment of a relevant section of the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator;
- (3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance;
- (4) If the opinion of the Tax Administrator was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;
- (5) The effective date of any change in the taxpayer's material facts or circumstances;
- (6) The effective date of the expiration of the opinion, if specified in the opinion.

(D) (1) 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.

- (2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the Municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of section 183.15 of this Chapter.

(E) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:

- (1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;
- (2) It is the duty of the taxpayer to be aware of such changes.

(F) A Tax Administrator may refuse to offer an opinion on any request received under this section.

(G) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.

(H) An opinion of a Tax Administrator binds that 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.

(I) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.

(J) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under subsection (F) may not be appealed.

(Ord. 2015-43. Passed 11-23-15.)

183.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY.

- (A) (1) The Tax Administrator shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under section 5703.056 of the Ohio Revised Code.
- (2) 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. Such alternative delivery method must be authorized by the person subject to the assessment.
- (3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in Section 718.18 of the Revised Code is prima facie evidence that delivery is complete and that the assessment is served.
- (B) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. 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 twenty per cent, 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 (B)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal 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 Local Board of Tax Review.
- (Ord. 2015-43. Passed 11-23-15.)

183.18 LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW.

- (A) (1) The legislative authority of the Municipality shall maintain a Local Board of Tax Review to hear appeals as provided in Ohio Revised Code Chapter 718.
- (2) The Local Board of Tax Review shall consist of three members.
- The three members of the Local Board of Tax Review may be domiciled in the Municipality, but the appointing authority may consider membership from individuals who are not domiciled within the Municipality.
- Two members shall be appointed by the legislative authority of the Municipality, and 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 top administrative official 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.
- (3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the Municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the top administrative official of the Municipality shall serve at the discretion of the administrative official.
- (4) Members of the board of tax review appointed by the legislative authority may be removed by the legislative authority as set forth in Section 718.11(A)(4) of the Revised Code.
- (5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.
- (6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty 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 shall impair the power and authority of the remaining members to exercise all the powers of the board.
- (7) If a member is temporarily unable to serve on the board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.
- (8) No member of the Local Board of Tax Review shall receive compensation, fee, or reimbursement of expenses for service on the board.
- (9) A member of a Local Board of Tax Review shall not be appointed to or serve on another such board simultaneously.
- (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, and to whom the appeal should be directed.
- (C) Any person who has been issued an assessment may appeal the assessment to the board by filing a request with the board. 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 sixty days after the taxpayer receives the assessment.
- (D) The Local Board of Tax Review shall schedule a hearing to be held within sixty 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 and/or may be represented by an attorney at law, certified public accountant, or other representative. The board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within one hundred twenty days after the first day of the hearing unless the parties agree otherwise.
- (E) The board may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The board shall issue a final determination on the appeal within ninety days after the board'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 fifteen days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the board's final determination as provided in section 5717.011 of the Ohio Revised Code.
- (F) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing, and may be

amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local 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. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing. (Ord. 2015-43. Passed 11-23-15.)

183.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS.

- (A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter 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 a Local Board of Tax Review the request described in Section 183.18 of this Chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request 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 Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local 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 per cent 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 183.096 of this Chapter.
- (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 Local Board of Tax Review created under Section 183.18 of this Chapter, 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 amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by Section 183.096 of this Chapter, with interest on that amount as provided by division (D) of that section.
- (E) No civil action to recover municipal 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. 2015-43. Passed 11-23-15.)

183.20 ADOPTION OF RULES.

- (A) Pursuant to Section 718.30 of the Revised Code, the legislative authority of the Municipality has the authority, by Ordinance or Resolution, to adopt rules to administer the income tax imposed by the Municipality.
- (B) All rules adopted under this section shall be published and posted on the internet.
- (Ord. 2015-43. Passed 11-23-15.)

183.21 REQUIREMENT OF OWNERS OF RENTAL OR LEASED PROPERTY TO PROVIDE THE INCOME TAX ADMINISTRATOR WITH INFORMATION REGARDING TENANTS.

(A) On or before July 1st of each year, all property owners who rent or lease to tenants of residential, commercial or industrial premises shall file with the Income Tax Administrator a report showing the name(s) and addresses (and phone number, if available) of each such tenant who occupies residential, commercial or industrial premises within the Village of Carrollton. The list shall also include all names and addresses (and phone numbers, if available) of any tenant who has vacated the property in the preceding twelve (12) month period and must include the date vacated and any forwarding address, if available. This information may also be requested at any time under audit by the Income Tax Administrator.

(B) Such report shall be in writing, and shall be delivered to the Income Tax Administrator by one of the following methods:

1. Regular U.S. Mail delivery directly to the Income Tax Administrator.
2. Electronic mail (E-Mail) directly to the Income Tax Administrator.
3. Facsimile transmission directly to the Income Tax Administrator.
4. Hand delivery directly to the Income Tax Administrator.

Forms and instructions for reporting shall be made available on the Village of Carrollton's website, or shall be available upon request to the Income Tax Administrator.

(C) For purposes of this Section, "tenant" means:

1. If there is a written lease or rental agreement, the person(s) who signed the written lease or rental agreement with the owner or their agent.
 2. If there is an oral lease or rental agreement, the person(s) who entered into the oral lease or rental agreement with the owner or their agent.
- (D) Failure to comply with this section will result in:
1. Notification (sent by Certified U.S. Mail delivery) to landlord requiring compliance within 30 days.
 2. Subpoena (sent by Certified U.S. Mail delivery) for the landlord to appear before the Income Tax Administrator with required documentation (with hearing scheduled within 14 days of date mailed.)
 3. (a) Whoever violates or fails to comply with any provision of this Section shall be fined not more than \$100.00. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

- (b) Whoever violates or fails to comply with any provision of this Section, and has a previous conviction under this Ordinance, shall be fined not more than \$500.00. A separate offense shall be deemed committed each day during or on which a violation of noncompliance occurs or continues.

(E) The requirements of this section 183.21 shall not apply to a property owner when the Village utility bill is registered in the name of the tenant.

(Ord. 2015-43. Passed 11-23-15.)

183.22 FILING NET PROFIT TAXES; ELECTION TO BE SUBJECT TO PROVISIONS OF CHAPTER.

(A) A taxpayer may elect to be subject to Sections 183.22 to 183.37 of the Codified Ordinances in lieu of the provisions set forth in the remainder of this chapter. Notwithstanding any other provision of this chapter, upon the taxpayer's election, both of the following shall apply:

- (1) The state tax commissioner shall serve as the sole administrator of the municipal net profit tax for which the taxpayer as defined in 183.23(C) of the Codified Ordinances is liable for the term of the election;
 - (2) The commissioner shall administer the tax pursuant to sections 718.80 to 718.95 of the Revised Code, Sections 183.22 to 183.37 of the Codified Ordinances, and any applicable provision of Chapter 5703 of the Revised Code.
- (B) (1) A taxpayer shall make the initial election on or before the first day of the third month after the beginning of the taxpayer's taxable year by notifying the tax commissioner and the Village, on a form prescribed by the tax commissioner.
- (2) (a) The election, once made by the taxpayer, applies to the taxable year in which the election is made and to each subsequent taxable year until the taxpayer notifies the tax commissioner and the Village of its termination of the election.
 - (b) A notification of termination shall be made, on a form prescribed by the tax commissioner, on or before the first day of the third month of any taxable year.
 - (c) Upon a timely and valid termination of the election, the taxpayer is no longer subject to Sections 183.22 to 183.37 of the Codified Ordinances, and is instead subject to the provisions set forth in the remainder of this chapter.
- (C) The tax commissioner shall enforce and administer Sections 183.22 to 183.37 of the Codified Ordinances. In addition to any other powers conferred upon the tax commissioner by law, the tax commissioner may:

- (1) Prescribe all forms necessary to administer those sections;
 - (2) Adopt such rules as the tax commissioner finds necessary to carry out those sections;
 - (3) Appoint and employ such personnel as are necessary to carry out the duties imposed upon the tax commissioner by those sections.
- (D) The tax commissioner shall not be considered a tax administrator, as that term is defined in section 718.01 of the Revised Code and Section 183.03 of the Village Codified Ordinances.

(Ord. 2018-07. Passed 3-26-18.)

183.23 DEFINITIONS.

If a term used in Sections 183.22 to 183.37 of the Codified Ordinances 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 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 have control over the use of the term in Title LVII of the Revised Code, unless the term is defined in Chapter 5703. of the Revised Code, in which case the definition in that chapter shall control. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States related to federal income taxes. If a term is defined in both this section and Section 183.03 of the Codified Ordinances, the definition in this section shall control for all uses of that term in Sections 183.22 to 183.37 of the Codified Ordinances.

As used in Sections 183.22 to 183.37 of the Codified Ordinances only:

- (A) "Municipal taxable income" means income apportioned or situated to the municipal corporation under Section 183.24 of the Codified Ordinances, as applicable, reduced by any pre-2017 net operating loss carryforward available to the person for the municipal corporation.
- (B) "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 as described in division (D)(5) of section 718.01 of the Revised Code and Section 183.03 of the Codified Ordinances, 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:
- (1) 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.
 - (2) Add an amount equal to five per cent of intangible income deducted under division (B)(1) 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.
 - (3) 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.
 - (4) (a) Except as provided in division (B)(4)(b) 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.
 - (b) Division (B)(4)(a) 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.
 - (5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.
 - (6) 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.
 - (7) 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 Revised Code.
 - (8) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.
 - (9) 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 (E)(3)(b) of Section 183.28 of the Codified Ordinances.
 - (10) 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 (E)(3)(b) of Section 183.28 of the Codified Ordinances.
- If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (47)(B)(i) of Section 183.03 of the Codified Ordinances, and is not a publicly traded partnership that has made the election described

in division (23)(D) of Section 183.03 of the Codified Ordinances, 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 (B) 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.

- (C) "Taxpayer" has the same meaning as in Section 183.03 of the Codified Ordinances, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under Chapter 5745 of the Revised Code. "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.
- (D) "Tax return" or "return" means the notifications and reports required to be filed pursuant to Sections 183.22 to 183.37 of the Codified Ordinances for the purpose of reporting municipal income taxes, and includes declarations of estimated tax.
- (E) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the calculation of the taxpayer's adjusted federal taxable income is based pursuant to this chapter. If a taxpayer's taxable year is changed for federal income tax purposes, the taxable year for purposes of Sections 183.22 to 183.37 of the Codified Ordinances is changed accordingly but may consist of an aggregation of more than one taxable year for federal income tax purposes. The tax commissioner may prescribe by rule an appropriate period as the taxable year for a taxpayer that has had a change of its taxable year for federal income tax purposes, for a taxpayer that has two or more short taxable years for federal income tax purposes as the result of a change of ownership, or for a new taxpayer that would otherwise have no taxable year.
- (F) "Assessment" means a notice of underpayment or nonpayment of a tax issued pursuant to Section 183.32 of the Codified Ordinances. (Ord. 2018-07. Passed 3-26-18.)

183.24 APPLICABILITY; TAXABLE SITUS; APPORTIONMENT.

This section applies to any taxpayer that is engaged in a business or profession in the Village and that has made the election under Section 183.22 of the Codified Ordinances.

- (A) Except as otherwise provided in division (B) of this section, net profit from a business or profession conducted both within and without the boundaries of the Village shall be considered as having a taxable situs in the Village for purposes of municipal income taxation in the same proportion as the average ratio of the following:
 - (1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in Village 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;
 - (2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in Village 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 183.052 of the Codified Ordinances;
 - (3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Village to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
 - (B) (1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the Village, the taxpayer may request, or the tax commissioner 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:
 - (a) Separate accounting;
 - (b) The exclusion of one or more of the factors;
 - (c) 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;
 - (d) A modification of one or more of the factors.
 - (2) 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 commissioner denies the request in an assessment issued within the period prescribed by division (A) of Section 183.32 of the Codified Ordinances.
 - (3) The tax commissioner may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of Section 183.32 of the Codified Ordinances.
- (C) As used in division (A)(2) 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:
 - (1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
 - (a) The employer;
 - (b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
 - (c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.
 - (2) 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;
 - (3) Any other location, if the tax commissioner determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the tax commissioner makes such a determination, the employer may dispute

the determination by establishing, by a preponderance of the evidence, that the tax commissioner's determination was unreasonable.

- (D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be situated to the Village as follows:
- (1) Gross receipts from the sale of tangible personal property shall be situated to the Village only if, regardless of where title passes, the property meets either of the following criteria:
 - (a) The property is shipped to or delivered within the Village from a stock of goods located within the Village.
 - (b) The property is delivered within the Village from a location outside the Village, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village and the sales result from such solicitation or promotion.
 - (2) Gross receipts from the sale of services shall be situated to the Village to the extent that such services are performed in the Village.
 - (3) To the extent included in income, gross receipts from the sale of real property located in the Village shall be situated to the Village.
 - (4) To the extent included in income, gross receipts from rents and royalties from real property located in the Village shall be situated to the Village.
 - (5) Gross receipts from rents and royalties from tangible personal property shall be situated to the Village based upon the extent to which the tangible personal property is used in the Village.
- (E) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the Village in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to the Village based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the Village to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
- (F) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (C)(12) and (R)(1)(d) of Section 183.03 of the Codified Ordinances by the Village or substantially similar provision of the codified ordinances of another municipal corporation, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to the Village. In no case shall a taxpayer be required to add to its net profit that was apportioned to the Village any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation. This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to the Village] under this section.
- (G) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) 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. 2018-07. Passed 3-26-18.)

183.25 INFORMATION PROVIDED TO TAX ADMINISTRATORS; CONFIDENTIALITY.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by Sections 183.22 to 183.37 of the Codified Ordinances is confidential, and no person shall disclose such information, except for official purposes, in accordance with a proper judicial order, or as provided in section 4123.271 or 5703.21 of the Revised Code. The tax commissioner may furnish the internal revenue service with copies of returns filed. This section does not prohibit the publication of statistics in a form which does not disclose information with respect to particular taxpayers.

(B) In May and November of each year, the tax commissioner shall provide the Village tax administrator with the following information for every taxpayer that filed tax returns with the commissioner under Sections 183.22 to 183.37 of the Codified Ordinances and that had municipal taxable income apportionable to the Village under this chapter for any prior year:

- (1) The taxpayer's name, address, and federal employer identification number;
- (2) The taxpayer's apportionment ratio for, and amount of municipal taxable income apportionable to, the Village pursuant to Section 183.24 of the Codified Ordinances;
- (3) The amount of any pre-2017 net operating loss carryforward utilized by the taxpayer;
- (4) Whether the taxpayer requested that any overpayment be carried forward to a future taxable year;
- (5) The amount of any credit claimed under section 718.94 of the Revised Code.

(C) Not later than thirty days after each distribution made to municipal corporations under section 718.83 of the Revised Code, the tax commissioner shall provide to the Village a report stating the name and federal identification number of every taxpayer that made estimated payments that are attributable to the Village and the amount of each such taxpayer's estimated payment.

(D) The information described under divisions (B) and (C) of this section shall be provided to the individual or individuals designated by the Village tax administrator under section 718.83(D) of the Revised Code.

- (E) (1) The Village expects that the tax commissioner will, pursuant to section 718.84(E) of the Revised Code, provide tax returns and other information it receives in the performance of its administration of the municipal net profits tax for taxpayers making the election provided in Section 183.22 of the Codified Ordinances. The tax administrator shall review these returns and information, as well as the information received pursuant to divisions (B) and (C) of this section, and has discretion to refer any taxpayer for audit by the tax commissioner. Such referral shall be made on a form prescribed by the commissioner and shall include any information that forms the basis for the referral.
- (2) If the tax commissioner declines to audit a taxpayer referred by the tax administrator under this section, the Village reserves its right to pursue any and all remedies, whether at law or in equity, to ensure that the correct tax liability has been calculated and paid by the taxpayer.

(Ord. 2018-07. Passed 3-26-18.)

183.26 FILING OF ANNUAL RETURN; REMITTANCE; DISPOSITION OF FUNDS.

- (A) (1) For each taxable year, every taxpayer shall file an annual return. Such return, along with the amount of tax shown to be due on the return less the amount paid for the taxable year under Section 183.30 of the Codified Ordinances, shall be submitted to the tax commissioner, on a form and in the manner prescribed by the commissioner, on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year.
- (2) If a taxpayer has multiple taxable years ending within one calendar year, the taxpayer shall aggregate the facts and figures necessary to compute the tax due under this chapter, in accordance with Sections 183.23, 183.24, and, if applicable, Section 183.28 of the Codified Ordinances onto its annual return.
- (3) The remittance shall be made payable to the treasurer of state and in the form prescribed by the tax commissioner. If the amount payable with the tax return is ten dollars or less, no remittance is required.

- (B) (1) Each return required to be filed under this section 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, and shall include the taxpayer's identification number. Each return shall be verified by a declaration under penalty of perjury.
- (2) (a) The tax commissioner may require a taxpayer to include, with each annual tax return, amended return, or request for refund filed with the commissioner under Sections 183.22 to 183.37 of the Codified Ordinances, copies of any relevant documents or other information.
- (b) A taxpayer that files an annual tax return electronically through the Ohio business gateway or in another manner as prescribed by the tax commissioner shall either submit the documents required under this division electronically as prescribed at the time of filing or, if electronic submission is not available, mail the documents to the tax commissioner. The department of taxation shall publish a method of electronically submitting the documents required under this division on or before January 1, 2019.
- (3) After a taxpayer files a tax return, the tax commissioner may request, and the taxpayer shall provide, any information, statements, or documents required to determine and verify the taxpayer's municipal income tax.
- (C) (1) (a) Any taxpayer that has duly requested an automatic extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a tax return with the commissioner under this section. The extended due date of the return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.
- (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 commissioner grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the commissioner receives the request on or before the date the municipal income tax return is due, the commissioner shall grant the taxpayer's extension request.
- (c) An extension of time to file under division (D)(1) of this section is not an extension of the time to pay any tax due unless the tax commissioner grants an extension of that date.
- (2) If the commissioner considers it necessary in order to ensure payment of a tax imposed in accordance with this chapter, the commissioner may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.
- (D) Each return required to be filed in accordance with this section 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 commissioner about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the commissioner to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the commissioner with information that is missing from the return, to contact the commissioner for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the commissioner and has shown to the preparer or other person.

(E) When income tax returns or other documents require the signature of a tax return preparer, the tax commissioner shall accept a facsimile or electronic version of such a signature in lieu of a manual signature.

(Ord. 2018-07. Passed 3-26-18.)

183.27 ELECTRONIC FILING.

(A) All taxpayers that have made the election allowed under Section 183.22 of the Codified Ordinances shall file any tax return or extension for filing a tax return, and shall make payment of amounts shown to be due on such returns, electronically, either through the Ohio business gateway or in another manner as prescribed by the tax commissioner.

(B) A taxpayer may apply to the commissioner, on a form prescribed by the commissioner, to be excused from the requirement to file returns and make payments electronically. For good cause shown, the commissioner may excuse the applicant from the requirement and permit the applicant to file the returns or make the payments by nonelectronic means.

(C) The tax commissioner may adopt rules establishing the following:

- (1) The format of documents to be used by taxpayers to file returns and make payments by electronic means;
- (2) The information taxpayers must submit when filing tax returns by electronic means.

(Ord. 2018-07. Passed 3-26-18.)

183.28 CONSOLIDATED RETURNS.

(A) 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 (A)(1) of this section.
- (4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.
- (5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.
- (B) (1) A taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated tax return for a taxable year if at least one member of the affiliated group of corporations is subject to municipal 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 tax returns under division (B)(2) of this section or a taxpayer receives permission from the tax commissioner. The tax commissioner shall approve such a request for good cause shown.
- (2) An election to discontinue filing consolidated tax returns under this section must be made on or before the fifteenth day of the fourth month of the year following the last year of a five-year consolidated tax return election period in effect under division (B)(1) of this section. The election to discontinue filing a consolidated tax return is binding for a five-year period beginning

with the first taxable year of the election.

- (3) An election made under division (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.
- (4) When a taxpayer makes the election allowed under Section 183.22 of the Codified Ordinances, a valid election made by the taxpayer under division (B)(1) or (2) of Section 183.063 of the Codified Ordinances is binding upon the tax commissioner for the remainder of the five-year period.
- (5) When an election made under Section 183.22 of the Codified Ordinances is terminated, a valid election made under this section is binding upon the tax administrator for the remainder of the five-year period.

(C) 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 tax return for that taxable year if the tax commissioner 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 a municipal corporation. A taxpayer that is required to file a consolidated tax return for a taxable year shall file a consolidated tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the commissioner to file a separate return or a taxpayer has experienced a change in circumstances.

(D) A taxpayer shall prepare a consolidated 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.

- (E) (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated tax return shall compute adjusted federal taxable income, as defined in Section 183.23 of the Codified Ordinances, 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 tax return shall make any adjustment otherwise required under division (B) of Section 183.23 of the Codified Ordinances 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 per cent 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 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 Section 183.24 of the Codified Ordinances, 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 Section 183.24 of the Codified Ordinances, 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 per cent 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 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 Section 183.24 of the Codified Ordinances, 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;
 - (b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with Sections 183.22 to 183.37 of the Codified Ordinances on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated tax return shall make the computations required under Section 183.24 of the Codified Ordinances 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.

(G) Each corporation filing a consolidated tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts applicable under Section 183.22 to 183.37 of the Codified Ordinances or Chapter 5703. of the Revised Code to 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. (Ord. 2018-07. Passed 3-26-18.)

183.29 FAILURE TO PAY TAX.

If a taxpayer that has made the election allowed under Section 183.22 of the Codified Ordinances fails to pay any tax as required under Sections 183.22 to 183.37 of the Codified Ordinances, or any portion of that tax, on or before the date prescribed for its payment, interest shall be assessed, collected, and paid, in the same manner as the tax, upon such unpaid amount at the rate per annum prescribed by section 5703.47 of the Revised Code from the date prescribed for its payment until it is paid or until the date an assessment is issued under Section 183.32 of the Codified Ordinances, whichever occurs first.

(Ord. 2018-07. Passed 3-26-18.)

183.30 DECLARATION OF ESTIMATED TAXES.

(A) As used in this section:

- (1) "Combined tax liability" means the total amount of a taxpayer's income tax liabilities to all municipal corporations in this state for a taxable year.
- (2) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's combined tax liability for the current taxable year.

(B) (1) Except as provided in division (B)(4) of this section, every taxpayer shall make a declaration of estimated taxes for the current

taxable year, on the form prescribed by the tax commissioner, if the amount payable as estimated taxes is at least two hundred dollars.

- (2) Except as provided in division (B)(4) of this section, a taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the commissioner.
 - (3) The declaration of estimated taxes shall be filed on or before the fifteenth day of the fourth month after the beginning of the taxable year or on or before the fifteenth day of the fourth month after the taxpayer becomes subject to tax for the first time.
 - (4) The tax commissioner may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.
- (C) Each taxpayer shall file the declaration of estimated taxes with, and remit estimated taxes to, the tax commissioner at the times and in the amounts prescribed in division (C)(1) of this section. Remitted taxes shall be made payable to the treasurer of state.
- (1) The required portion of the combined tax liability for the taxable year that shall be paid through estimated taxes shall be as follows:
 - (a) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half per cent of the combined tax liability for the taxable year;
 - (b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five per cent of the combined tax liability for the taxable year;
 - (c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half per cent of the combined tax liability for the taxable year;
 - (d) On or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the combined tax liability for the taxable year.
 - (2) If the taxpayer determines that its declaration of estimated taxes will not accurately reflect the taxpayer's tax liability for the taxable year, the taxpayer shall increase or decrease, as appropriate, its subsequent payments in equal installments to result in a more accurate payment of estimated taxes.
 - (3)
 - (a) Each taxpayer shall report on the declaration of estimated taxes the portion of the remittance that the taxpayer estimates that it owes to each municipal corporation for the taxable year.
 - (b) Upon receiving a payment of estimated taxes under this section, the commissioner shall immediately forward the payment to the treasurer of state. The treasurer shall credit the payment in the same manner as in division (B) of section 718.85 of the Revised Code.
- (D) (1) In the case of any underpayment of estimated taxes, there shall be added to the taxes an amount determined at the rate per annum prescribed by section 5703.47 of the Revised Code 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 per cent of the combined 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 per cent of the combined 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 per cent of the combined 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 per cent of the combined 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 due.
- (3) All amounts collected under this section shall be considered as taxes collected under Sections 183.22 to 183.37 of the Codified Ordinances and shall be credited and distributed to municipal corporations in accordance with section 718.83 of the Revised Code.
- (E) An underpayment of any portion of a combined tax liability 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 per cent of the combined 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 per cent 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 municipal income tax return for that year.

(Ord. 2018-07. Passed 3-26-18.)

183.31 ADDITIONAL PENALTIES.

(A) In addition to any other penalty imposed by Sections 183.22 to 183.37 of the Codified Ordinances or Chapter 5703 of the Revised Code, the following penalties shall apply:

- (1) If a taxpayer required to file a tax return under Sections 183.22 to 183.37 of the Codified Ordinances fails to make and file the return within the time prescribed, including any extensions of time granted by the tax commissioner, the commissioner may impose a penalty not exceeding twenty-five dollars per month or fraction of a month, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which the return is filed. The aggregate penalty, per instance, under this division shall not exceed one hundred fifty dollars.
- (2) If a person required to file a tax return electronically under Sections 183.22 to 183.37 of the Codified Ordinances fails to do so, the commissioner may impose a penalty not to exceed the following:
 - (a) For each of the first two failures, five per cent of the amount required to be reported on the return;
 - (b) For the third and any subsequent failure, ten per cent of the amount required to be reported on the return.
- (3) If a taxpayer that has made the election allowed under Section 183.22 of the Codified Ordinances fails to timely pay an amount of tax required to be paid under this chapter, the commissioner may impose a penalty equal to fifteen per cent of the amount not timely paid.
- (4) If a taxpayer files what purports to be a tax return required by Sections 183.22 to 183.37 of the Codified Ordinances that does not contain information upon which the substantial correctness of the return may be judged or contains information that on its

face indicates that the return is substantially incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede the administration of Sections 183.22 to 183.37 of the Codified Ordinances, a penalty of up to five hundred dollars may be imposed.

- (5) If a taxpayer makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return required under Sections 183.22 to 183.37 of the Codified Ordinances, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the return.
- (6) If any person makes a false or fraudulent claim for a refund under Section 183.33 of the Codified Ordinances, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the claim. Any penalty imposed under this division, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under Section 183.32 of the Codified Ordinances without regard to any time limitation for the assessment imposed by division (A) of that section.

(B) For purposes of this section, the tax required to be shown on a tax return shall be reduced by the amount of any part of the tax paid on or before the date, including any extensions of the date, prescribed for filing the return.

(C) Each penalty imposed under this section shall be in addition to any other penalty imposed under this section. All or part of any penalty imposed under this section may be abated by the tax commissioner. The commissioner may adopt rules governing the imposition and abatement of such penalties.

(D) All amounts collected under this section shall be considered as taxes collected under Sections 183.22 to 183.37 of the Codified Ordinances and shall be credited and distributed to municipal corporations in the same proportion as the underlying tax liability is required to be distributed to such municipal corporations under section 718.83 of the Revised Code.

(Ord. 2018-07. Passed 3-26-18.)

183.32 ASSESSMENTS AGAINST TAXPAYER.

(A) If any taxpayer required to file a return under Section 183.22 to 183.37 of the Codified Ordinances fails to file the return within the time prescribed, files an incorrect return, or fails to remit the full amount of the tax due for the period covered by the return, the tax commissioner may make an assessment against the taxpayer for any deficiency for the period for which the return or tax is due, based upon any information in the commissioner's possession.

The tax commissioner shall not make or issue an assessment against a taxpayer more than three years after the later of the date the return subject to assessment was required to be filed or the date the return was filed. Such time limit may be extended if both the taxpayer and the commissioner consent in writing to the extension. Any such extension shall extend the three-year time limit in Section 183.33 of the Codified Ordinances for the same period of time. There shall be no bar or limit to an assessment against a taxpayer that fails to file a return subject to assessment as required by Sections 183.22 to 183.37 of the Codified Ordinances, or that files a fraudulent return. The commissioner shall give the taxpayer assessed written notice of the assessment as provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the taxpayer assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the authorized agent of the taxpayer assessed having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the taxpayer to the treasurer of state. The petition shall indicate the taxpayer's objections, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the taxpayer has an office or place of business in this state, the county in which the taxpayer's statutory agent is located, or Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the taxpayer assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for municipal income taxes," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the commissioner issues the assessment until the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(D) All money collected under this section shall be credited to the municipal income tax fund and distributed to the municipal corporation to which the money is owed based on the assessment issued under this section.

(E) If the tax commissioner believes that collection of the tax will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the taxpayer liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (C) of this section. Notice of the jeopardy assessment shall be served on the taxpayer assessed or the taxpayer's legal representative in the manner provided in section 5703.37 of the Revised Code within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the taxpayer assessed files a petition for reassessment in accordance with division (B) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(F) Notwithstanding the fact that a petition for reassessment is pending, the taxpayer may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition.

If upon final determination of the petition an error in the assessment is corrected by the tax commissioner, upon petition so filed or pursuant to a decision of the board of tax appeals or any court to which the determination or decision has been appealed, so that the amount due from the taxpayer under the corrected assessment is less than the portion paid, there shall be issued to the taxpayer, its assigns, or legal representative a refund in the amount of the overpayment as provided by Section 183.33 of the Codified Ordinances, with interest on that amount as provided by that section.

(Ord. 2018-07. Passed 3-26-18.)

183.33 REFUND APPLICATIONS.

(A) An application to refund to a taxpayer the amount of taxes paid on any illegal, erroneous, or excessive payment of tax under Sections 183.22 to 183.37 of the Codified Ordinances, including assessments, shall be filed with the tax commissioner within three years after the date of

the illegal, erroneous, or excessive payment of the tax, or within any additional period allowed by division (A) of Section 183.32 of the Codified Ordinances. The application shall be filed in the form prescribed by the tax commissioner.

(B) (1) On the filing of a refund application, the tax commissioner shall determine the amount of refund to which the applicant is entitled. The amount determined shall be based on the amount overpaid per return or assessment. If the amount is greater than ten dollars and not less than that claimed, the commissioner shall certify that amount to the director of budget and management and the treasurer of state for payment from the tax refund fund created in section 5703.052 of the Revised Code. If the amount is greater than ten dollars but less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

(2) Upon issuance of a refund under this section, the commissioner shall notify each municipal corporation of the amount refunded to the taxpayer attributable to that municipal corporation, which shall be deducted from the municipal corporation's next distribution under section 718.83 of the Revised Code.

(C) Any portion of a refund determined under division (B) of this section that is not issued within ninety days after such determination shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the ninety-first day after such determination until the day the refund is paid or credited. On an illegal or erroneous assessment, interest shall be paid at that rate from the date of payment on the illegal or erroneous assessment until the day the refund is paid or credited.

(Ord. 2018-07. Passed 3-26-18.)

183.34 AMENDED RETURNS.

(A) If any of the facts, figures, computations, or attachments required in an annual return filed by a taxpayer that has made the election allowed under Section 183.22 of the Codified Ordinances and used to determine the tax due under Sections 183.22 to 183.37 of the Codified Ordinances must be altered as the result of an adjustment to the taxpayer's federal income tax return, whether initiated by the taxpayer or the internal revenue service, and such alteration affects the taxpayer's tax liability under those sections, the taxpayer shall file an amended return with the tax commissioner in such form as the commissioner requires. The amended return shall be filed not later than sixty days after the adjustment is agreed upon or finally determined for federal income tax purposes or after any federal income tax deficiency or refund, or the abatement or credit resulting therefrom, has been assessed or paid, whichever occurs first. 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 commissioner before filing the amended return.

(B) 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. An amended return required by this section is a return subject to assessment under Section 183.32 of the Codified Ordinances for the purpose of assessing any additional tax due under this section, together with any applicable penalty and interest. The amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return no longer subject to assessment that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal tax return.

(C) In the case of an overpayment, an application for refund may be filed under this division within the sixty-day period prescribed for filing the amended return, even if that period extends beyond the period prescribed in Section 183.33 of the Codified Ordinances, if the application otherwise conforms to the requirements of that section. An application filed under this division shall claim refund of overpayments resulting from alterations to only 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 income tax return unless it is also filed within the time prescribed in Section 183.33 of the Codified Ordinances. The application shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return.

(Ord. 2018-07. Passed 3-26-18.)

183.35 EXAMINATION OF RECORDS AND OTHER DOCUMENTS AND PERSONS.

(A) The tax commissioner, or any authorized agent or employee thereof, may examine the books, papers, records, and federal and state income tax returns of any taxpayer or other person that is subject to Sections 183.22 to 183.37 of the Codified Ordinances for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due as required under those sections. Upon written request by the commissioner or a duly authorized agent or employee thereof, every taxpayer or other person subject to this section is required to furnish the opportunity for the commissioner, 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.

(B) The records and other documents of any taxpayer or other person that is subject to Sections 183.22 to 183.37 of the Codified Ordinances shall be open to the tax commissioner'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 commissioner, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The commissioner may require any person, by notice served on that person, to keep such records as the commissioner determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by a municipal corporation.

(C) The tax commissioner may examine under oath any person that the commissioner 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 commissioner may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal 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.

(D) No person issued written notice by the tax commissioner compelling attendance at a hearing or examination or the production of books, papers, records, or federal income tax returns under this section shall fail to comply.

(Ord. 2018-07. Passed 3-26-18.)

183.36 CREDITS.

(A) A credit, granted by resolution or ordinance of the Village pursuant to Section 183.064 or 183.065 of the Codified Ordinances, shall be available to a taxpayer that has made the election allowed under Section 183.22 of the Codified Ordinances, against the municipal corporation's tax on income. A municipal corporation shall submit the following information to the tax commissioner on or before the later of January 31, 2018, or the thirty-first day of January of the first year in which the taxpayer is eligible to receive the credit:

(1) A copy of the agreement entered into by the Village and taxpayer under Section 183.064 or 183.065 of the Codified Ordinances;

(2) A copy of the ordinance or resolution authorizing the agreement entered into between the Village and the taxpayer.

(B) (1) Each taxpayer that claims a credit shall submit, with the taxpayer's tax return, documentation issued by the Village granting the credit that confirms the eligibility of the taxpayer for the credit, the amount of the credit for which the taxpayer is eligible, and the tax year to which the credit is to be applied.

(2) Such documentation shall be provided in the form prescribed by the tax commissioner.

- (3) Nothing in this section shall be construed to authorize the tax commissioner to enter into an agreement with a taxpayer to grant a credit, to determine if a taxpayer meets the conditions of a tax credit agreement entered into by the Village and taxpayer under Section 183.064 or 183.065 of the Codified Ordinances,, or to modify the terms or conditions of any such existing agreement.

(Ord. 2018-07. Passed 3-26-18.)

183.37 RECKLESS VIOLATIONS; PENALTIES.

(A) Except as provided in division (B) of this section, whoever recklessly violates division (A) of Section 183.25 of the Codified Ordinances shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both.

(B) Each instance of access or disclosure in violation of division (A) of Section 183.25 of the Codified Ordinances constitutes a separate offense.

(C) These specific penalties shall not be construed to prevent the Village from prosecuting any and all other offenses that may apply.

(Ord. 2018-07. Passed 3-26-18.)

183.97 COLLECTION AFTER TERMINATION OF CHAPTER.

(A) This chapter shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 183.19.

(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 Section 183.091 as though the same were continuing.

(Ord. 2015-43. Passed 11-23-15.)

183.98 SAVINGS CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter so found 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 the legislative authority of the Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter.

(Ord. 2015-43. Passed 11-23-15.)

183.99 VIOLATIONS; PENALTY.

(A) Except as provided in division (B) of this section, whoever violates Section 183.15 of this Chapter, division (A) of Section 183.14 of this Chapter,, or Section 183.051 of this Chapter by failing to remit municipal 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 one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(B) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(C) Each instance of access or disclosure in violation of division (A) of Section 183.14 of this Chapter constitutes a separate offense.

(D) Whoever violates any provision of this Chapter for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the 3rd 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 2nd degree; on each subsequent offense within one year after the previous offense, the person is guilty of a misdemeanor of the 1st degree. By way of an illustrative enumeration, violations of this Chapter shall include but not be limited to the following acts, conduct, and/or omissions:

- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter; or
- (2) Knowingly make any incomplete return; or
- (3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this Chapter; or
- (4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by Section 183.051; or
- (5) Neglect or refuse to withhold or remit municipal income tax from employees; or
- (6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or
- (7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
- (8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or
- (9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or
- (10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or
- (11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or
- (12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this Chapter; or
- (13) 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.
- (14) For purposes of this Section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.
- (15) For purposes of this Section, the term "person" shall, in addition to the meaning prescribed in Section 183.03, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer

within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter.
(Ord. 2015-43. Passed 11-23-15.)

CHAPTER 191

Hotel Tax

191.01 Levy.

191.02 Rules and regulations.

191.01 LEVY.

(a) There is hereby enacted an excise tax on transactions by which lodging in a hotel is or is to be furnished to transient guests of three percent (3%) pursuant to Ohio R.C. 5739.02(C)(1).

(b) The tax shall be levied and collected effective January 1, 2000, with collection to be as provided for in the Regulations. (Ord. 1999-14. Passed 8-9-99.)

191.02 RULES AND REGULATIONS.

Council shall establish rules and regulations necessary to provide for the imposition, administration, collection and allocation of the lodging excise tax.

(Ord. 1999-14. Passed 8-9-99.)

CODIFIED ORDINANCES OF CARROLLTON

PART THREE - TRAFFIC CODE

TITLE ONE - Administration

Chap. 301. Definitions.

Chap. 303. Enforcement, Impounding and Penalty.

Chap. 305. Traffic Control.

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.

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CHAPTER 301

Definitions

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CROSS REFERENCES

See sectional histories for similar State law
 Funeral procession defined - see TRAF. 331.24
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 Snowmobile, off-highway motorcycle and all purpose vehicle defined - see TRAF.
 375.01
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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(LLL))

301.04 BICYCLE; MOTORIZED BICYCLE; MOPED; ELECTRIC BICYCLE.

(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 that produces not 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. "Motorized bicycle" or "moped" does not include an electric bicycle. (ORC 4511.01(H))

(c) "Electric bicycle" means a "class 1 electric bicycle", a "class 2 electric bicycle", or a "class 3 electric bicycle" as defined in this section. (ORC 4511.01(RRR))

(1) "Class 1 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty miles per hour. (ORC 4511.01(SSS))

(2) "Class 2 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that may provide assistance regardless of whether the rider is pedaling and is not capable of providing assistance when the bicycle reaches the speed of twenty miles per hour. (ORC 4511.01(TTT))

(3) "Class 3 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty-eight miles per hour. (ORC 4511.01(UUU))

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(LL))

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))

301.20 MOTOR VEHICLE.

"Motor vehicle" means every vehicle propelled or drawn by power other than muscular power, except motorized bicycles, electric 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, 4511.522, 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 Ohio R.C. 4511.214.
- (e) A violation of a municipal ordinance that is substantially similar to any section or provision set forth or described in subsection (a) to (d) 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. A shared-use path does not include any trail that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use.

(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 DEVICES.

"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 and an electric 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, any 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))

301.53 WASTE COLLECTION VEHICLE.

"Waste collection vehicle" means a vehicle used in the collection of garbage, refuse, trash or recyclable materials. (ORC 4511.01(RRR))

CHAPTER 303

Enforcement, Impounding and Penalty

- 303.01 Compliance with lawful order of police officer; fleeing.**
- 303.02 Traffic direction in emergencies; obedience to school guard.**
- 303.03 Officer may remove ignition key.**
- 303.04 Road workers, motor vehicles and equipment excepted.**
- 303.041 Emergency, public safety and coroner's vehicles exempt.**
- 303.05 Application to persons riding, driving animals upon roadway.**
- 303.06 Freeway use prohibited by pedestrians, bicycles and animals.**
- 303.07 Application to drivers of government vehicles.**
- 303.08 Impounding of vehicles; redemption.**
- 303.081 Impounding vehicles on private residential or agricultural property.**
- 303.082 Private tow-away zones.**
- 303.083 Release of vehicle; records; charges.**
- 303.09 Leaving junk and other vehicles on private or public property without permission or notification.**
- 303.10 Unlicensed and junk motor vehicles on private property.**
- 303.11 Providing false information to police officer.**
- 303.99 General Traffic Code penalties.**

303.991 Committing an offense while distracted penalty.

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.

(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. A violation of subsection (b) is a misdemeanor of the first degree, unless 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; an electric bicycle; 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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(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) When any vehicle or "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63 is left on private property for more than forty-eight consecutive hours without the permission of the person having the right to the possession of the property, or 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. Prior to disposal of an "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63, it shall be photographed by a law enforcement officer.
- (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, or due to the abandonment thereof by the operator during or immediately after pursuit by a law enforcement officer.
- (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 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.)

303.09 LEAVING JUNK AND OTHER VEHICLES ON PRIVATE OR PUBLIC PROPERTY WITHOUT PERMISSION OR NOTIFICATION.

(a) No person shall willfully leave any vehicle or an "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63 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 or 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 the vehicle in such place.

For purposes of this section, the fact that a vehicle has been so left without permission or notification is prima-facie evidence of abandonment. Nothing contained in this section shall invalidate the provisions of other ordinances regulating or prohibiting the abandonment of motor vehicles on streets, highways, public property or private property within the Municipality.

(b) Whoever violates this section is guilty of a minor misdemeanor and shall also be assessed any costs incurred by the Municipality in disposing of an abandoned junk motor vehicle that is the basis of the violation, less any money accruing to the Municipality from this disposal of the vehicle. (ORC 4513.64)

303.10 UNLICENSED AND JUNK MOTOR VEHICLES ON PRIVATE PROPERTY.

(a) Abandoned Motor Vehicles on Private Property.

- (1) No person shall park, store or leave, or permit the parking or storing of any unlicensed motor vehicle or any vehicle inoperable or wrecked, junk, partially dismantled, or abandoned condition, whether attended or not, for a period in excess of five (5) calendar days upon any private property within the Village, unless the same is completely enclosed within a building, or unless it is in connection with a business enterprise operated in a lawful place and manner and licensed as such, when necessary to the operation of such enterprise, or it is a collector's vehicle, pursuant to Ohio R.C. 4501.01(f).
 - (2) For the purposes of this section, a motor vehicle shall be deemed to be in wrecked or junk condition if any of the following apply:
 - A. The vehicle is extremely damaged, including but not limited to any of the following: missing wheels, tires, motors or transmissions, or;
 - B. The vehicle is apparently inoperable;
 - C. The vehicle is unlicensed;
 - D. The vehicle is deemed to be detrimental to the aesthetics of the Village.
 - (3) Whoever violates this section is guilty of a misdemeanor of the third degree.
- (b) Removal Required. The accumulation and storage of one or more such motor vehicles in violation of the provisions of this section shall

constitute rubbish and unsightly debris, and shall constitute a nuisance, detrimental to the health, safety and general welfare of the citizens of the Village. It shall be duty of the owner of such motor vehicle, and shall be the duty of the person in charge or control of the private property upon which the motor vehicle is located to remove said vehicle to a valid storage area.

(c) Notice to Remove. Whenever there are reasonable grounds to believe that a violation of the provisions of this section exists, the Chief of Police or Village Administrator, shall give or cause to be given, written notice to the registered owner of any motor vehicle which is in violation of this section, or to the owner or person in lawful possession or control of the private property upon which such motor vehicle is located, or to both the registered owner and the owner or person in lawful possession or control of such private property, by certified mail with return receipt or by personal service, that said motor vehicle violates the provisions of this section and that within five (5) days the motor vehicle is to be removed to a place of lawful storage or housed where it is not visible from the roadway.

(d) Removal by the Village. The Chief of Police or Village Administrator may remove abandoned motor vehicles as defined in this section if the registered owner of any motor vehicle which is in violation of this section, or the owner, or person in lawful possession or control of the private property upon which the same is located, fails, neglects or refuses to remove or house said motor vehicle in accordance with the notice served upon them pursuant to the provisions of this section.

The Chief of Police or Village Administrator or any contracting agent of the Village, and employee of said agent, and authorized officer, or agent of the Village are hereby expressly authorized to enter upon private property for such purpose and to remove any motor vehicle in accordance with the provisions of this chapter. Any person to whom notice was given pursuant to this section shall have the right to remove or house such motor vehicle in accordance with such notice at their own expense prior to the arrival of the Chief of Police, Village Administrator or authorized agents of the Village. (Ord. 2003-21. Passed 10-27-03.)

303.11 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)

303.991 COMMITTING AN OFFENSE WHILE DISTRACTED PENALTY.

(a) As used in this section and each section of the Traffic Code where specified, all of the following apply:

(1) "Distracted" means doing either of the following while operating a vehicle:

A. Using a handheld electronic wireless communications device, as defined in Ohio R.C. 4511.204 except when utilizing any of the following:

1. The device's speakerphone function;
2. A wireless technology standard for exchanging data over short distances;
3. A "voice-operated or hands-free" device that allows the person to use the electronic wireless communications device without the use of either hand except to activate, deactivate, or initiate a feature or function;

4. Any device that is physically or electronically integrated into the motor vehicle.

B. Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.

(2) "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of Section 331.43.

(3) "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage or a circumstance affecting the health or safety of individuals.

As used in subsection (a)(3) of this section:

A. "Utility" means an entity specified in division (A), (C), (D), (E) or (G) of Ohio R.C. 4905.03.

B. "Utility service vehicle" means a vehicle owned or operated by a utility.

(b) If an offender violates any section of this Traffic Code which provides for an enhanced penalty for an offense committed while distracted and the distracting activity is a contributing factor to the commission of the violation, the offender is subject to the applicable penalty for the violation and, notwithstanding Ohio R.C. 2929.28, is subject to an additional fine of not more than one hundred dollars (\$100.00) as follows:

(1) Subject to Traffic Rule 13, if a law enforcement officer issues an offender a ticket, citation or summons for a violation of any section of the Traffic Code that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the offender may enter a written plea of guilty and waive the offender's right to contest the ticket, citation or summons in a trial provided that the offender pays the total amount of the fine established for the violation and pays the additional fine of one hundred dollars (\$100.00).

In lieu of payment of the additional fine of one hundred dollars (\$100.00), the offender instead may elect to attend a distracted driving safety course, the duration and contents of which shall be established by the Ohio Director of Public Safety. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of one hundred dollars (\$100.00), so long as the offender submits to the court both the offender's payment in full and such written evidence.

(2) If the offender appears in person to contest the ticket, citation or summons in a trial and the offender pleads guilty to or is convicted of

the violation, the court, in addition to all other penalties provided by law, may impose the applicable penalty for the violation and may impose the additional fine of not more than one hundred dollars (\$100.00). If the court imposes upon the offender the applicable penalty for the violation and an additional fine of not more than one hundred dollars (\$100.00), the court shall inform the offender that, in lieu of payment of the additional fine of not more than one hundred dollars (\$100.00), the offender instead may elect to attend the distracted driving safety course described in subsection (b)(1) of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than one hundred dollars (\$100.00), so long as the offender submits to the court the offender's payment and such written evidence.

(ORC 4511.991)

CHAPTER 305

Traffic Control

305.01 Authority to regulate local traffic.

305.02 Conformity with State manual.

305.03 Permit required for traffic signal on State route.

305.04 Violations subject to misdemeanor classification.

305.05 Owner may establish non-liability for local traffic offenses by proof of lease of vehicle.

305.06 Reservation of power to Council.

CROSS REFERENCES

See sectional history for similar State law

Power to designate highway as included in a freeway, expressway or thruway - see

Ohio R.C. 4511.011

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

Alteration of prima-facie speed limits - see Ohio R.C. 4511.21, 4511.22(A), 4511.23

Power to erect stop signs at grade crossings - see Ohio R.C. 4511.61

Designation of through streets and erection of stop or yield signs - see Ohio R.C.

4511.65; TRAF. 313.02

Traffic control devices defined - see TRAF. 301.46

305.01 AUTHORITY TO REGULATE LOCAL TRAFFIC.

The provisions of the State Traffic Code as contained in Ohio R.C. Chapters 4511 and 4513 do not prevent the Municipality from enacting local traffic regulations covering the following activities with respect to the streets and highways under local jurisdiction and within the reasonable exercise of the police power by the Municipality:

- (a) Regulating the stopping, standing or parking of vehicles;
- (b) Regulating traffic by means of police officers or traffic control devices;
- (c) Regulating or prohibiting processions or assemblages on streets or highways;
- (d) Designating particular streets as one-way streets and requiring that all vehicles on the one-way streets be moved in one specific direction;
- (e) Regulating the speed of vehicles in public parks;
- (f) Designating any street or highway as a through street or highway and requiring that all vehicles stop before entering or crossing a through street or highway, or designating any intersection as a stop intersection and requiring all vehicles to stop at one or more entrances to the intersection;
- (g) Regulating or prohibiting vehicles from passing to the left of safety zones;
- (h) Regulating the operation of bicycles and requiring the registration and licensing of bicycles, including the requirements of a registration fee.
- (i) Regulating the use of certain streets by vehicles.

No ordinance or regulation enacted under subsections (d), (e), (f), (g) or (i) of this section shall be effective until signs giving notice of the local traffic regulations are posted upon or at the entrance to the street or highway or part of the street or highway affected, as may be most appropriate.

Every ordinance, resolution or regulation enacted under subsection (a) hereof shall be enforced in compliance with Section 305.05. (ORC 4511.07)

305.02 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.

305.03 PERMIT REQUIRED FOR TRAFFIC SIGNAL ON STATE ROUTE.

No traffic control signal shall be placed or maintained upon an extension of the State highway system within the Village without first obtaining the permission of the Ohio Director of Transportation. The Director may revoke the permission and may require to be removed any traffic control signal that has been erected without his permission on an extension of a State highway within the Village, or that, if erected under a permit granted by the Director, does not conform to the State manual and specifications as required by Section 305.02, or that is not operated in accordance with the terms of the permit. (ORC 4511.11(C))

305.04 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.

305.05 OWNER MAY ESTABLISH NONLIABILITY FOR LOCAL TRAFFIC OFFENSES BY PROOF OF LEASE OF VEHICLE.

(a) The owner of a vehicle shall be entitled to establish nonliability for prosecution for violation of an ordinance, resolution or regulation enacted under Section 305.01(a) by proving the vehicle was in the care, custody or control of a person other than the owner at the time of the violation pursuant to a written lease agreement providing that except for such agreement, no other business relationship with respect to the vehicle in question exists between the operator and owner.

(b) Proof that the vehicle was in the care, custody or control of a person other than the owner shall be established by sending a copy of such written lease agreement to the prosecuting authority within thirty days from the date of receipt by the owner of the notice of violation. The furnishing of a copy of a written lease agreement shall be prima-facie evidence that a vehicle was in the care, custody or control of a person other than the owner. (ORC 4511.071)

305.06 RESERVATION OF POWER TO COUNCIL.

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

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.

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.

CHAPTER 313

Traffic Control Devices

- 313.01 Obedience to traffic control devices.**
- 313.02 Through streets; stop and yield right-of-way signs.**
- 313.03 Traffic signal indications.**
- 313.04 Lane-use control signal indications.**
- 313.05 Special pedestrian control signals.**
- 313.06 Flashing traffic signals. (Repealed)**
- 313.07 Unauthorized signs and signals, hiding from view, advertising.**
- 313.08 Alteration, injury, removal of traffic control devices.**
- 313.09 Driver's duties upon approaching ambiguous or non-working traffic signal.**
- 313.10 Unlawful purchase, possession or sale.**
- 313.11 Portable signal preemption devices prohibited.**

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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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 or colored lighted arrows, 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 or an electric bicycle, the signals are otherwise malfunctioning due to the failure of a vehicle detector to detect the presence of the bicycle or electric 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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(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

- 331.01 Driving upon right side of roadway; exceptions.**
- 331.02 Passing to right when proceeding in opposite directions.**
- 331.03 Overtaking, passing to left; driver's duties.**
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- 331.36 Squealing tires, "peeling", cracking exhaust noises.**
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- 331.38 Stopping for school bus; discharging children.**
- 331.39 Driving across grade crossing.**
- 331.40 Stopping at grade crossing.**
- 331.41 Shortcutting; avoiding traffic control devices.**
- 331.42 Littering from motor vehicle.**
- 331.43 Wearing earplugs or earphones prohibited.**
- 331.44 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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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 or electric 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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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 or electric bicycle, the signal shall be made not less than one time but is not required to be continuous. A bicycle or electric bicycle operator is not required to make a signal if the bicycle or electric 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 or electric 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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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 or electric bicycle may give a right turn signal by extending the right hand and arm horizontally and to the right side of the bicycle or electric 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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.712)

331.34 FAILURE TO CONTROL; WEAIVING; 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 or an electric bicycle if the motor is not engaged, 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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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) As used in this section:
- (1) "Earphones" means any device that covers all or a portion of both ears and that does either of the following:
 - A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;
 - B. Provides hearing protection."Earphones" does not include speakers or other listening devices that are built into protective headgear.
 - (2) "Earplugs" means any device that can be inserted into one or both ears and that does either of the following:
 - A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;
 - B. Provides hearing protection.
- (b) No person shall operate a motor vehicle while wearing earphones over, or earplugs in, both ears.
- (c) This section does not apply to:
- (1) Any person wearing a hearing aid;
 - (2) Law enforcement personnel while on duty;
 - (3) Fire Department 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 highway;
 - (5) Any person engaged in the operation of refuse collection equipment;
 - (6) Any person wearing earphones or earplugs for hearing protection while operating a motorcycle.
- (d) Except as otherwise provided in this division, 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 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.)

OVI; Willful Misconduct; Speed

- 333.01 Driving or physical control while under the influence.**
- 333.02 Operation in willful or wanton disregard of safety.**
- 333.03 Maximum speed limits; assured clear distance ahead.**
- 333.031 Approaching a stationary public safety, emergency, or road service vehicle.**
- 333.04 Stopping vehicle; slow speed; posted minimum speeds.**
- 333.05 Speed limitations over bridges.**
- 333.06 Speed exceptions for emergency or safety vehicles.**
- 333.07 Street racing prohibited.**
- 333.08 Operation without reasonable control.**
- 333.09 Reckless operation on streets, public or private property.**
- 333.10 Operation in violation of immobilization order.**
- 333.11 Texting while driving prohibited.**

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 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. 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) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:
 - A. The offender is convicted of or pleads guilty to a violation of subsection (a) of this section.
 - B. The test or tests were of the offender's whole blood, blood serum or plasma, or urine.

- C. The test or tests indicated that the offender had a prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine at the time of the offense.
- (8) 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, except as provided in subsections (b)(8) to (b)(12) of this section;
- (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 on freeways with paved shoulders inside the Municipality other than freeways as provided in subsection (b)(10) and (12);
- (8) Sixty miles per hour on rural expressways with traffic control signals and on all portions of rural divided highways, except as provided in subsections (b)(9) and (10) of this section;
- (9) Sixty-five miles per hour on all rural expressways without traffic control signals;
- (10) Seventy miles per hour on all rural freeways;
- (11) Fifty-five miles per hour on all portions of freeways or expressways in congested areas as determined by the Director and that are located within a municipal corporation or within an interstate freeway outerbelt, except as provided in subsection (b)(12) of this section;
- (12) Sixty-five miles per hour on all portions of freeways or expressways without traffic control signals in urbanized areas. (A.O.)
- (13) The prima-facie speed limit for Industrial Drive is hereby established at twenty-five miles per hour.

(Ord. 2019-37. Passed 9-9-19.)

(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, or upon a freeway as provided in subsection (b)(12) of this section, 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 an area outside urbanized areas and outside of a business or urban district, and areas that extend within urbanized areas where the roadway characteristics remain mostly unchanged from those outside the urbanized areas.
- (6) "Urbanized area" has the same meaning as in 23 U.S.C. 101.
- (7) "Divided" means a roadway having two or more travel lanes for vehicles moving in opposite directions and that is separated by a median of more than four feet, excluding turn lanes.
- (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.
- (4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.21)

333.031 APPROACHING A STATIONARY PUBLIC SAFETY VEHICLE.

(a) The driver of a motor vehicle, upon approaching a stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection 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, waste collection 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, waste collection 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.
- (3) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
- (e) The offense established under 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 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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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)

333.11 TEXTING WHILE DRIVING PROHIBITED.

(a) No person shall drive a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using a handheld electronic wireless communications device to write, send, or read a text-based communication.

(b) Subsection (a) of this section does not apply to any of the following:

- (1) A person using a handheld electronic wireless communications device in that manner for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;
- (2) A person driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person's duties;
- (3) A person using a handheld electronic wireless communications device in that manner whose motor vehicle is in a stationary position and who is outside a lane of travel;
- (4) A person reading, selecting, or entering a name or telephone number in a handheld electronic wireless communications device for the purpose of making or receiving a telephone call;
- (5) A person receiving wireless messages on a device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic or weather alerts; or data used primarily by the motor vehicle;

- (6) A person receiving wireless messages via radio waves;
- (7) A person using a device for navigation purposes;
- (8) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device;
- (9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;
- (10) A person using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle.

(c) 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 (a) 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 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.

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

(e) A prosecution for a violation of Ohio R.C. 4511.204 does not preclude a prosecution for a violation of a substantially equivalent municipal ordinance based on the same conduct. However, if an offender is convicted of or pleads guilty to a violation of Ohio R.C. 4511.204 and is also convicted of or pleads guilty to a violation of a substantially equivalent municipal ordinance based on the same conduct, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(f) As used in this section:

- (1) "Electronic wireless communications device" includes any of the following:
 - A. A wireless telephone;
 - B. A text-messaging device;
 - C. A personal digital assistant;
 - D. A computer, including a laptop computer and a computer tablet;
 - E. Any other substantially similar wireless device that is designed or used to communicate text.
- (2) "Voice-operated or hands-free device" means a device that allows the user to vocally compose or send, or to listen to a text-based communication without the use of either hand except to activate, or deactivate a feature or function.
- (3) "Write, send or read a text-based communication" means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending, or reading communications referred to as text messages, instant messages, or electronic mail.

(ORC 4511.204)

CHAPTER 335

Licensing; Accidents

- 335.01 Driver's license or commercial driver's license required.**
- 335.02 Permitting operation without valid license; one license permitted.**
- 335.021 Ohio driver's license required for in state residents.**
- 335.03 Driving with temporary instruction permit; curfew.**
- 335.031 Driving with probationary license; curfew.**
- 335.032 Use of electronic wireless communication device prohibited while driving.**
- 335.04 Certain acts prohibited.**
- 335.05 Wrongful entrustment of a motor vehicle.**
- 335.06 Display of license.**
- 335.07 Driving under suspension or license restriction.**
- 335.071 Driving under OVI suspension.**
- 335.072 Driving under financial responsibility law suspension or cancellation ; driving under a nonpayment of judgement suspension .**
- 335.073 Driving without complying with license reinstatement requirements.**
- 335.074 Driving under license forfeiture or child support suspension.**
- 335.08 Operation or sale without certificate of title.**
- 335.09 Display of license plates or validation stickers; registration.**
- 335.091 Operating without dealer or manufacturer license plates.**
- 335.10 Expired or unlawful license plates.**
- 335.11 Use of illegal license plates; transfer of registration.**
- 335.111 Registration within thirty days of residency.**
- 335.12 Stopping after accident upon streets; collision with unattended vehicle.**
- 335.13 Stopping after accident upon property other than street.**
- 335.14 Vehicle accident resulting in damage to realty.**

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)

335.032 USE OF ELECTRONIC WIRELESS COMMUNICATION DEVICE PROHIBITED WHILE DRIVING.

- (a) No holder of a temporary instruction permit who has not attained the age of eighteen years and no holder of a probationary driver's license shall drive a motor vehicle on any street, highway, or property used by the public for purposes of vehicular traffic or parking while using in any manner an electronic wireless communications device.
- (b) Subsection (a) of this section does not apply to either of the following:
- (1) A person using an electronic wireless communications device for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;
 - (2) A person using an electronic wireless communications device whose motor vehicle is in a stationary position and the motor vehicle is outside a lane of travel;
 - (3) A person using a navigation device in a voice-operated or hands-free manner who does not manipulate the device while driving.
- (c) (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) of this section shall be fined one hundred fifty dollars (\$150.00). In addition, the court shall impose a class seven suspension of the offender's driver's license or permit for a definite period of sixty days.

- (2) If the person previously has been adjudicated a delinquent child or a juvenile traffic offender for a violation of this section, whoever violates this section shall be fined three hundred dollars (\$300.00). In addition, the court shall impose a class seven suspension of the person's driver's license or permit for a definite period of one year.

(d) The filing of a sworn complaint against a person for a violation of Ohio R.C. 4511.205 does not preclude the filing of a sworn complaint for a violation of a substantially equivalent municipal ordinance for the same conduct. However, if a person is adjudicated a delinquent child or a juvenile traffic offender for a violation of Ohio R.C. 4511.205 and is also adjudicated a delinquent child or a juvenile traffic offender for a violation of a substantially equivalent municipal ordinance for the same conduct, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(e) As used in this section, "electronic wireless communications device" includes any of the following:

- (1) A wireless telephone;
 - (2) A personal digital assistant;
 - (3) A computer, including a laptop computer and a computer tablet;
 - (4) A text-messaging device;
 - (5) Any other substantially similar electronic wireless device that is designed or used to communicate via voice, image, or written word.
- (ORC 4511.205)

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 JUDGEMENT 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 OR VALIDATION STICKERS; REGISTRATION.

- (a) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the rear of the motor vehicle a license plate that displays 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, except that a commercial tractor shall display the license plate and validation sticker on the front of the commercial tractor.
 - (2) The license plate shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs its 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.
- (ORC 4503.21(A))
- (b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.
 - (2) 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(B), (C))

335.091 OPERATING WITHOUT DEALER OR MANUFACTURER LICENSE PLATES.

(a) No person shall operate or cause to be operated upon a public road or highway a motor vehicle of a manufacturer or dealer unless the vehicle carries and displays a placard, except as provided in Ohio R.C. 4503.21, issued by the Director of Public Safety that displays the registration number of its manufacturer or dealer.

(b) Whoever violates subsection (a) of this section is guilty of illegal operation of a manufacturer's or dealer's motor vehicle, a minor misdemeanor. (ORC 4549.10)

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.**
- 337.02 Lighted lights; measurement of distances and heights.**
- 337.03 Headlights on motor vehicles and motorcycles.**
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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/SAE 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/SAE 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, stationary waste collection vehicles actively collecting garbage, refuse, trash or recyclable materials on the roadside, 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>in feet</u>	<u>Deceleration in</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 CUTOFF; 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) (1) 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.

(2) 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.

(3) 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 the following:

A. That the person has a physical impairment that makes use of an occupant restraining device impossible or impractical;

B. Whether the physical impairment is temporary, permanent or reasonably expected to be permanent;

C. If the physical impairment is temporary, how long the physical impairment is expected to make the use of an occupant restraining device impossible or impractical.

(4) Subsections (b)(1) and (3) of this section do not apply to a person who has registered with the Registrar of Motor Vehicles in accordance with subsection (c)(5) of this section.

(5) A person who has received an affidavit under subsection (c)(3) of this section stating that the person has a permanent or reasonably expected to be permanent physical impairment that makes use of an occupant restraining device impossible or impracticable may register with the Registrar attesting to that fact. Upon such registration, the Registrar shall make that information available in the law enforcement automated data system. A person included in the database under subsection (c)(5) of this section is not required to have the affidavit obtained in accordance with subsection (c)(3) of this section in their possession while operating or occupying an automobile.

(6) A physician or chiropractor who issues an affidavit for the purposes of subsection (c)(3) or (4) of this section is immune from civil liability arising from any injury or death sustained by the person who was issued the affidavit due to the failure of the person to wear an occupant restraining device unless the physician or chiropractor, in issuing the affidavit, acted in a

manner that constituted willful, wanton or reckless misconduct.

- (7) The Registrar shall adopt rules in accordance with Ohio R.C. Chapter 119, establishing a process for a person to be included in the database under subsection (c)(5) of this section. The information provided and included in the database under subsection (c)(5) of this section is not a public record subject to inspection or copying under Ohio R.C. 149.43.

(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. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site <http://www.gpo.gov>.
- B. Any suncreening 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 suncreening 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 suncreening 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 suncreening material is applied to the rear window and the suncreening 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 suncreening 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 sunscreens material. All sunscreens 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 sunscreens 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. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site <http://www.gpo.gov>.

(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) "Sunscreens material" means products or materials, including film, glazing and perforated sunscreens, 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 sunscreens 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.**
- 339.02 Use of local streets; local permit and conditions.**
- 339.03 Maximum width, height and length.**
- 339.04 Route and load information.**
- 339.05 Wheel protectors.**
- 339.06 Vehicles transporting explosives.**

- 339.07 Towing requirements.**
- 339.08 Loads dropping or leaking; removal required; tracking mud.**
- 339.09 Shifting load; loose loads.**
- 339.10 Vehicles with spikes, lugs and chains.**
- 339.11 Use of studded tires and chains.**
- 339.12 Motor vehicle brakes.**

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 Section 303.99.

(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.

339.03 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-semi-trailer-trailer or commercial tractor-semi-trailer-semi-trailer combination, except that the Director may prohibit the operation of any such commercial tractor-semi-trailer-trailer or commercial tractor- semi-trailer-semi-trailer combination on such State highways or portions of State highways as the Director designates;
- (5) A. 97 feet for drive-away saddle-mount vehicle transporter combinations and drive-away saddle-mount with full-mount 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 saddle-mounted vehicles, but which may include one full-mount;
B. 75 feet for drive-away saddle-mount vehicle transporter combinations and drive-away saddle-mount with full-mount vehicle transporter combinations, when operated on any roadway not designated as an interstate, United States route, or State route, not to exceed three saddle-mounted vehicles, but which may include one full-mount;
- (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-semi-trailer-semi-trailer 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. (ORC 4513.31)

(e) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

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 MOTOR VEHICLE BRAKES.

(a) No person shall drive or operate, or cause to be driven or operated, any vehicle which is equipped with an engine braking system which produces excessive noise, audible as excessive within fifty (50) feet, or which is improperly muffled so as to create a public nuisance, including the creation of excessive noise. The provisions of this section, however, shall not apply to emergency vehicles.

(b) The usage of any and all "engine brakes" shall be prohibited within the Village. "Engine brakes" shall be defined to include, but not be limited to, systems commonly known and/or referred to as C Brakes, PacBrakes, TekBrakes, Jake Brakes and any other type of engine brakes commonly utilized within the trucking industry.

(c) Whoever violates this section is guilty of a minor misdemeanor.

(Ord. 2006-3. Passed 3-27-06.)

CHAPTER 341

Commercial Drivers

341.01 Definitions.

341.02 Exemptions.

341.03 Prerequisites to operation of a commercial motor vehicle.

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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, joint fire district or the Ohio Fire Marshal;
- (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

- 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.**
- 351.04 Parking near curb; handicapped locations on public and private lots and garages.**
- 351.05 Manner of angle parking.**
- 351.06 Selling, washing or repairing vehicle upon roadway.**
- 351.07 Unattended vehicle: duty to stop engine, remove key, set brake and turn wheels.**
- 351.08 Opening vehicle door on traffic side.**
- 351.09 Truck loading zones.**
- 351.10 Bus stops and taxicab stands.**
- 351.11 Parking in alleys and narrow streets; exceptions.**
- 351.12 Prohibition against parking on streets or highways.**
- 351.13 Parking on posted private property.**
- 351.14 Emergency parking in no parking zone.**

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; (A.O.)
- (10) Within twenty feet of a driveway entrance to any fire station;
(Ord. 1988-26. Passed 10-17-88.)
- (11) Within fifty feet of the nearest rail of a railroad crossing;
- (12) 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;
- (13) Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic;
- (14) Alongside any vehicle stopped or parked at the edge or curb of a street;
- (15) Upon any bridge or other elevated structure upon a street, or within a street tunnel;
- (16) 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;
- (17) Within one foot of another parked vehicle;
- (18) On the roadway portion of a freeway, expressway or thruway.

(b) A person shall be permitted, without charge or restriction, to stand or park on a sidewalk, a motor-driven cycle or motor scooter that has an engine not larger than one hundred and fifty cubic centimeters, or a bicycle or electric bicycle, provided that the motor-driven cycle, motor scooter, bicycle or electric bicycle does not impede the normal flow of pedestrian traffic. This division does not authorize any person to operate a vehicle in violation of Section 331.37.

(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 4511.68)

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 ON POSTED PRIVATE PROPERTY.

(a) If an owner of private property posts on the property in a conspicuous manner, prohibition against parking on the property or conditions and regulations under which parking is permitted, no person shall do either of the following:

(1) Park a vehicle on the property without the owner's consent;

(2) Park a vehicle on the property in violation of any condition or regulation posted by the owner.

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4511.681)

351.14 EMERGENCY PARKING IN NO PARKING ZONE.

Village firefighters when responding to an emergency call are authorized to park in the no parking zone on the north side of 3rd Street SW next to the Safety Center Building.

(Ord. 2008-32. Passed 5-27-08.)

CHAPTER 353

Parking Meters

353.01 Definitions.

353.02 Parking within marked lines of meter space.

353.03 Deposit of coin required; illegal parking.

353.04 Parking prohibited in meter space.

353.05 Hours of operation; authority of Police Chief.

353.06 Position of parked vehicles.

353.07 Operation of meters; commercial trucks.

353.08 Overtime parking prohibited.

353.09 Extension beyond maximum allowable periods.

353.10 Violations; duties of police; waivers.

353.11 Use of moneys.

353.12 Non-metered parking control.

353.13 Prohibitions.

353.14 Designation of the Traffic Control Map.

353.99 Penalty.

CROSS REFERENCES

353.01 DEFINITIONS.

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them:

- (a) "Parking meter" means a mechanical device installed for the regulation of parking by lawful authority. Each parking meter shall contain a slot for the deposit of lawful coin of the United States and a receptacle for receiving and storing such coin. Each parking meter shall display brief directions as to its operation and the value of lawful coin required to be deposited. Each parking meter shall contain a timing mechanism which shall indicate either a balance of legal parking time or overtime parking by an appropriate signal at the expiration of such lawful time.
- (b) "Parking meter space" means a space within a parking meter area, which is designated for the parking of a single vehicle by marked lines on the curb or paved surface area adjacent to a parking meter. Posted notice on the meter or on signs shall indicate the maximum consecutive parking time limit during which a vehicle may be legally parked in a particular parking meter space and the days and hours when the requirement to deposit lawful coins shall apply. (A.O.)
- (c) "Traffic Control Map" means that map outlined Section 353.14 of the Codified Ordinances.
- (d) "Angle Parking" means parking permitted on certain streets in the Central Business District with lines painted outlining a space which is at a 37 or 45 degree angle from the curb.
- (e) "Parking permit" means that printed card for which a vehicle owner pays a specified sum for the parking privileges on a given lot or controlled parking area.
- (f) "Parking violation ticket" means a ticket which contains the date, time and number of parking space and section in which a vehicle is said to have been parked illegally.
- (g) "Parking Zone Space" means a space within a marked parking area, which is designated for the parking of a single vehicle by marked lines on the curb or paved surface. Posted notice on signs shall indicate the maximum consecutive parking time limit during which a vehicle may be legally parked in a particular marked parking space and the days and hours when the parking time limit applies.

(Ord. 2003-11. Passed 6-9-03.)

353.02 PARKING WITHIN MARKED LINES OF METER SPACE.

No person shall park a vehicle in a parking meter space in such a way that the vehicle shall not be entirely within the limits of the space so designated by marked lines.

353.03 DEPOSIT OF COIN REQUIRED; ILLEGAL PARKING.

No person shall cause, allow or permit a vehicle to occupy a parking meter space during the hours when the provisions applicable to such space are in effect, unless he shall deposit such lawful coin of the United States of appropriate denomination in the adjacent parking meter, as required by directions on the meter. Such person is not required to deposit a coin in a meter which indicates a balance of unused legal parking time left by the previous occupant of the space, so long as his occupancy of the space does not exceed the indicated unused parking time. The parking meter space may be lawfully occupied by such vehicle during the balance of legal parking time shown on the meter provided such occupancy does not exceed the established maximum time limit.

No person shall fail to comply with directions displayed on the parking meter or fail to set the timing mechanism in operation when so required.

No person shall cause, allow or permit a vehicle to occupy meter space beyond the maximum consecutive parking time limit lawfully prescribed, for the particular space occupied, by appropriate notice on the meter or on posted signs, irrespective of the number or amount of coin deposited in such meter.

353.04 PARKING PROHIBITED IN METER SPACE.

Notwithstanding any provision of this chapter, no person shall park in a parking meter space when otherwise directed by a police officer or fireman or when parking is prohibited by properly posted signs.

353.05 HOURS OF OPERATION; AUTHORITY OF POLICE CHIEF.

(a) Use of parking meters is required between the hours of 8:00 a.m. and 6:00 p.m. Monday through Saturday. Use of parking meters is not required on Sundays and legal holidays.

(b) The Chief of Police may alter the hours and days of operation provided for in subsection (a) hereof. The Chief shall also cause parking meter spaces to be indicated, including curb and street marking lines, shall fix the time limitations and cost for legal parking in parking meter zones, shall establish the size and angle of parking spaces, shall indicate the time limitations by placing the same on the parking meters or on signs posted in immediate proximity to such meters, and shall provide for the maintenance of all parking meters in a workable condition.

353.06 POSITION OF PARKED VEHICLES.

When a parking space in any parking meter zone is parallel with the adjacent curb or sidewalk, no vehicle parked in such parking space shall be parked otherwise than with the foremost part of such vehicle nearest to such meter.

353.07 OPERATION OF METERS; COMMERCIAL TRUCKS.

(a) When a vehicle is parked in any space adjacent to which a parking meter is located in accordance with the provisions of this chapter, the operator of such vehicle shall, upon entering the parking space, immediately deposit or cause to be deposited a ten-cent, five-cent, or one-cent coin, or coins of equivalent value that the Police Chief or Council may decide upon, in such parking meter, and put such meter in operation. No person shall fail to deposit such coin or coins of such specified values and put the meter in operation. Upon the deposit of such coin or coins of such specified values and placing such meter in operation, the parking space may be lawfully occupied by such vehicle during the period of parking time which has been prescribed for the part of the street in which such parking space is located. If the vehicle remains parked in any such parking space beyond the parking time limit fixed for such parking space, the parking meter shall, by its dial and pointer, indicate such illegal parking. In that event, such vehicle shall be considered as parked overtime and beyond the period of legal parking time.

(b) Commercial trucks may park in the parking meter zones to load or unload merchandise without depositing coins for a period not to exceed twenty minutes. No person shall park any commercial truck in any parking meter zone for longer than twenty minutes without depositing the required coins and putting the meter in operation.

353.08 OVERTIME PARKING PROHIBITED.

(a) No person shall cause or permit any vehicle registered in the name of or operated by him to be parked overtime or beyond the period of legal parking time established for any parking meter zone.

(b) No person shall permit any vehicle to remain in any parking space adjacent to any parking meter while such meter is displaying a signal

indicating that the vehicle occupying such parking space has already been parked beyond the period of time prescribed for such parking space.

353.09 EXTENSION BEYOND MAXIMUM ALLOWABLE PERIODS.

No person shall deposit or cause to be deposited in a parking meter one or more ten-cent, five-cent or one-cent coins for the purpose of extending the parking time beyond the maximum time fixed by the Police Chief or by Council.

353.10 VIOLATIONS; DUTIES OF POLICE; WAIVERS.

It shall be the duty of the Municipal police officers and parking violation attendant to take and report:

- (a) The number of each parking meter which indicates that the vehicle occupying the parking space adjacent to such parking meter is or has been parked in violation of any of the provisions of this chapter;
- (b) The state license number of such vehicle;
- (c) The time during which such vehicle is parking in violation of any of the provisions of this chapter; and
- (d) Any other facts, a knowledge of which is necessary to a thorough understanding of the circumstances attending such violation. Each such police officer or Parking Violation Attendant shall also attach to such vehicle a notice to the owner or operator thereof that such vehicle has been parked in violation of a provision of this chapter and instructing such owner or operator to report at the Municipal Building in regard to such violation. Each such owner or operator shall, within forty-eight hours of the time when such notice was attached to such vehicle, pay to the Municipality, as a penalty for and in full satisfaction of such violation, the sum of five dollars (\$5.00). The failure of such owner or operator to make such payment of the five dollars (\$5.00) within such forty-eight hour period shall render such owner or operator subject to the penalties provided in this Traffic Code. (Ord. 2007-10. Passed 4-9-07.)

353.11 USE OF MONEYS.

The fee required to be deposited in parking meters is hereby levied as a police regulation and inspection fee to cover the cost of providing parking spaces, parking meters and the installation and maintenance thereof, the cost of regulation, inspection, operation, control and use of the parking meter spaces and zones, the cost of regulation and control of traffic moving in and out of, and parking in, such parking spaces and zones and the cost of any resultant traffic administration expense.

353.12 NON-METERED PARKING CONTROL.

In the non-metered section outlined in Section 353.14, parking will be controlled by monitoring the vehicles by an approved method by the Police Chief of the Village of Carrollton.

- (a) Vehicles parked in these areas will be permitted two (2) hours free parking Monday through Saturday during the hours of 8:00 a.m. to 6:00 p.m. excluding legal holidays.
- (b) If the vehicle is still parked in the same location for at least two (2) hours, a municipal police officer shall issue a citation showing the date, time of issuance, the parking space number and section in which the violation occurred.
- (c) When a violation occurs, the owner or operator shall pay a fine of five dollars (\$5.00) within five days from the issuance of the citation. If the owner or operator does not remit payment for the citation within the five (5) day period allotted, the fine will become ten dollars (\$10.00). A maximum of twenty-five dollars (\$25.00) shall be charged for any single violation.
- (d) Any vehicle which is parked in the same section but a different space for the two hour period, will be considered to have been parked in the same space for the purpose of issuing a citation. When a violation of this section occurs, the fine shall be twenty dollars (\$20.00).
- (e) Violations of the parking privileges, as outlined for meters in Section 353.10, will be fined the same as violations of the non-metered sections as described in subsection (c) thereof.
- (f) If for any reason as being valid by the Chief of Police for the Village of Carrollton, the owner or operator of a vehicle must leave a vehicle parked in a certain space or section for longer than the allotted time, that owner or driver may request a parking permit for a fee of five dollars (\$5.00) for each two hours the vehicle must remain parked in these spaces. This must be done before the vehicle is parked and the permit must be prominently displayed in the front window of the vehicle.
- (g) Any owner or operator who must park in a space for more than the allotted time for official government business or jury duty other than being a witness in a trial or legal proceeding or being a participant in a legal proceeding in any court located within the Central Business District as outlined in the Zoning Regulations of the Village may obtain a permit from the Village of Carrollton Police Department free of charge for a period of twenty-four hours, providing, it does not infringe on any other parking restrictions in force.

(Ord. 2007-09. Passed 4-9-07.)

353.13 PROHIBITIONS.

No person shall:

- (a) Cause, allow or permit any vehicle registered in the name of such person or operated by such person to be parked overtime in any controlled parking space.
- (b) Permit any vehicle, registered in the name of or operated by such person be parked across any line or marking of a controlled parking space or in such a position as the vehicle is not entirely within the area designated by such lines or markings.
- (c) Park any vehicle so that the front wheels are not against the curb in any angle parking space or more than twelve inches from the curb in any parallel parking space unless the parking spaces are completely outlined. In such a case, the vehicle must be parked so that it is completely within the lines so marked.

(Ord. 2007-09. Passed 4-9-07.)

353.14 DESIGNATION OF TRAFFIC CONTROL MAP.

The streets or portion of streets and parking lot areas designated as controlled parking zones will be so marked on the Traffic Control Map and filed in conformity with Section 353.12.

(Ord. 2007-09. Passed 4-9-07.)

353.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for misdemeanor classifications and penalties.)

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.

- 371.02 Right of way of blind person.**
- 371.03 Crossing roadway outside crosswalk; diagonal crossings at intersections.**
- 371.04 Moving upon right half of crosswalk.**
- 371.05 Walking along highways.**
- 371.06 Use of highway for soliciting; riding on outside of vehicles.**
- 371.07 Right of way on sidewalk.**
- 371.08 Yielding to public safety vehicle.**
- 371.09 Walking on highway while under the influence.**
- 371.10 On bridges or railroad crossings.**
- 371.11 Persons operating motorized wheelchairs.**
- 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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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.
- If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (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)

Bicycles and Motorcycles

- 373.01 Code application to bicycles.**
- 373.02 Riding upon seats; handle bars; helmets and glasses.**
- 373.03 Attaching bicycle or sled to vehicle.**
- 373.04 Riding bicycles and motorcycles abreast.**
- 373.05 Signal device on bicycle.**
- 373.06 Lights and reflector on bicycle; brakes.**
- 373.07 Riding bicycle on right side of roadway; obedience to traffic rules; passing.**
- 373.08 Reckless operation; control, course and speed.**
- 373.09 Parking of bicycle.**
- 373.10 Motorized bicycle operation, equipment and license.**
- 373.11 Riding on sidewalks; proximity to curb; direction of travel.**
- 373.12 Impounding.**
- 373.13 Paths exclusively for bicycles.**
- 373.14 Electric bicycles.**

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 and electric bicycles apply whenever a bicycle or electric 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 or electric bicycle operator who violates any section of this Traffic Code described in subsection (a) of this section that is applicable to bicycles or electric 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 or electric 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, electric bicycle operator, or motor vehicle operator when the trier of fact finds that the violation by the motor vehicle operator endangered the lives of bicycle riders or electric 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, electric 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 and electric 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 or electric bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, or carry any other person upon such bicycle or electric bicycle other than upon a firmly attached and regular seat thereon, and no person shall ride upon a bicycle or electric 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 or electric bicycle shall carry any package, bundle or article that prevents the driver from keeping at least one hand upon the handlebars.

(g) No bicycle, electric 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.

(3) Subsections (i)(1) and (i)(2)A. of this section do not apply to a person who operates or is a passenger in an auticycle or cab-enclosed motorcycle when the occupant compartment top is in place enclosing the occupants.

(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 or electric 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, electric bicycle, coaster, roller skates, sled, skateboard 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, electric bicycle, coaster, roller skates, sled, skateboard 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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.54)

373.04 RIDING BICYCLES AND MOTORCYCLES ABREAST.

(a) Persons riding bicycles, electric 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, electric 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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.55)

373.05 SIGNAL DEVICE ON BICYCLE.

(a) A bicycle or electric bicycle may be equipped with a device capable of giving an audible signal, except that a bicycle or electric bicycle shall not be equipped with nor shall any person use upon a bicycle or electric 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 or electric 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 electric 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 or electric 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 or electric bicycle and white lamps and white reflectors shall not be used on the rear of the bicycle or electric bicycle.

(c) Every bicycle or electric 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 or electric 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 or electric 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 or electric 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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.55(A))

373.08 RECKLESS OPERATION; CONTROL, COURSE AND SPEED.

(a) No person shall operate a bicycle or electric 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 or electric 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 or electric 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 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) Whoever violates this section is guilty of a minor misdemeanor.
- (ORC 4511.521)

373.11 RIDING ON SIDEWALKS; PROXIMITY TO CURB; DIRECTION OF TRAVEL.

- (a) No person shall ride a bicycle on any sidewalk.
- (b) No person shall ride any bicycle otherwise than in the direction of vehicular travel on any street or highway. (Ord. 1-A-1944. Passed 8-14-44.)
- (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.

373.12 IMPOUNDING.

Authority is hereby given to any police officer to impound any bicycle for a period of not less than seven days, nor more than thirty days, to be determined by the Mayor, or until its proper ownership is proven, when such bicycle is used in the commission of any violation of any of the provisions of this chapter. This remedy is in addition to any penalty provided in this Traffic Code. (Ord. 1-A-1944. Passed 8-14-44.)

373.13 PATHS EXCLUSIVELY FOR BICYCLES.

- (a) No person shall operate a motor vehicle, snowmobile, or all-purpose vehicle upon any path set aside for the exclusive use of bicycles, when an appropriate sign giving notice of such use is posted on the path.
- Nothing in this section shall be construed to affect any rule of the Ohio Director of Natural Resources governing the operation of motor vehicles, snowmobiles, all-purpose vehicles, and bicycles on lands under the Director's jurisdiction.
- (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.
- If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.713)

373.14 ELECTRIC BICYCLES.

- (a) (1) The operation of a class 1 electric bicycle and a class 2 electric bicycle is permitted on a path set aside for the exclusive use of bicycles or on a shared-use path, unless the Municipality by resolution, ordinance, or rule prohibits the use of a class 1 electric bicycle or class 2 electric bicycle on such a path.
- (2) No person shall operate a class 3 electric bicycle on a path set aside for the exclusive use of bicycles or a shared-use path unless that path is within or adjacent to a highway or the Municipality by resolution, ordinance, or rule authorizes the use of a class 3 electric bicycle on such a path.
- (3) No person shall operate a class 1 electric bicycle, a class 2 electric bicycle or a class 3 electric bicycle on a path that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use, unless the Municipality by resolution, ordinance or rule authorizes the use of a class 1 electric bicycle, a class 2 electric bicycle, or a class 3 electric bicycle on such a path.
- (b) (1) No person under sixteen years of age shall operate a class 3 electric bicycle; however, a person under sixteen years of age may ride as a passenger on a class 3 electric bicycle that is designed to accommodate passengers.
- (2) No person shall operate or be a passenger on a class 3 electric bicycle unless the person is wearing a protective helmet that meets the standards established by the Consumer Product Safety Commission or the American Society for Testing and Materials.
- (c) (1) Except as otherwise provided in this subsection, whoever operates an electric bicycle in a manner that is prohibited under subsection (a) of this section and whoever violates subsection (b) 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 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) The offenses established under subsection (c)(1) of this section are strict liability offenses and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of these offenses as strict liability offenses 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 4511.522)

CHAPTER 375

Snowmobiles, Off-Highway Motorcycles and All Purpose Vehicles

375.01 Definitions.

375.02 Equipment.

375.03 Code application; prohibited operation.

375.04 Permitted operation.

375.05 Licensing requirements of operator.

375.06 Registration of vehicles.

375.07 Accident reports.

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 CARROLLTON

PART FIVE - GENERAL OFFENSES CODE

- Chap. 501. General Provisions and Penalty.
- Chap. 505. Animals and Fowl.
- Chap. 509. Disorderly Conduct and Peace Disturbance.
- Chap. 513. Drug Abuse Control.
- Chap. 517. Gambling.
- Chap. 521. Health, Safety and Sanitation.
- Chap. 525. Law Enforcement and Public Office.
- Chap. 529. Liquor Control.
- Chap. 533. Obscenity and Sex Offenses.
- Chap. 537. Offenses Against Persons.
- Chap. 541. Property Offenses.
- Chap. 545. Theft and Fraud.
- Chap. 549. Weapons and Explosives.
- Chap. 553. Railroads.
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CHAPTER 501

General Provisions and Penalty

- 501.01 Definitions.**
- 501.02 Classification of offenses.**
- 501.03 Common law offenses abrogated.**
- 501.04 Rules of construction.**
- 501.05 Criminal law jurisdiction.**
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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, 2903.34(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 January 1, 2004, a fine not exceeding one hundred dollars (\$100.00);

(2) For an offense committed on or after January 1, 2004, a fine not exceeding one hundred fifty dollars (\$150.00), community service under division (D) 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.

A. 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.

B. 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 economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court imposes restitution for the cost of accounting or auditing done to determine the extent of economic loss, the court may order restitution for any amount of the victim's costs of accounting or auditing provided that the amount of restitution is reasonable and does not exceed the value of property or services stolen or damaged as a result 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.

- C. 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.
 - D. 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.
 - E. 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:

<u>Type of Misdemeanor</u>	<u>Maximum 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.

- 505.01 Dogs and other animals running at large.**
- 505.02 Impounding and disposition; records.**
- 505.03 Annual registration of dogs; tags required.**
- 505.04 Abandoning animals.**
- 505.05 Killing or injuring animals.**
- 505.06 Poisoning animals.**
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- 505.071 Cruelty to companion animals.**
- 505.08 Nuisance conditions prohibited.**
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- 505.11 Hunting prohibited.**
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- 505.13 Animal fights.**
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- 505.15 Dogs with blind persons.**
- 505.16 Dangerous wild animals and restricted snakes.**
- 505.17 Dangerous dogs.**
- 505.99 Penalty.**

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

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 dog 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 for a first offense and a misdemeanor of the fourth degree for each subsequent offense.

(ORC 955.99(D)).

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 subsection (a) 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.

(ORC 959.99 (E)(3))

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, or to trespassing animals as set forth in Ohio R.C. 959.04. (ORC 959.02)

(b) Except as otherwise provided herein, whoever violates this section 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.

(a) No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a farm animal, dog, cat, poultry or other domestic animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any of such animals, either upon his own lands or the lands of another. This section does not apply to trespassing animals as set forth in Ohio R.C. 959.04.

(ORC 959.03)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (ORC 959.99(C))

505.07 CRUELTY TO ANIMALS GENERALLY.

(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) The owning, keeping or harboring within the Village by any person of any dog or other animal which by habitual barking, biting or howling, or by trespassing upon the premises of others, or which destroys or damages property, or which in any way disturbs the peace and quiet of the Village and its inhabitants or creates offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public, may be declared a nuisance upon proper order by a court before whom any complaint concerning such animal is heard.
- (b) Any animal which scratches, digs, urinates 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 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 without the permission of the owner of such property. Where the owner or person in charge or control of such animal immediately

removes all feces deposited by such dog and disposes of same in a sanitary manner, such nuisances shall be considered abated.

(d) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor for a first offense; for each subsequent offense such person is guilty of a misdemeanor of the fourth degree.

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 ANIMAL FIGHTS.

(a) No person shall engage in or be employed at dogfighting, cockfighting, bearbaiting, pitting an animal against another, or cruelty to animals; no person shall receive money for the admission of another to a place kept for such purpose; no person shall use, train or possess a dog or other animal for seizing, detaining, or mistreating a domestic animal. Any person who knowingly purchases a ticket of admission to such place, or is present thereat, or witnesses such spectacle, is an aider and abettor. (ORC 959.15)

(b) Whoever violates any provision of this section is guilty of a misdemeanor of the fourth degree. (ORC 959.99(C))

505.14 HINDERING CAPTURE OF UNLICENSED DOG.

(a) No person shall obstruct or interfere with anyone lawfully engaged in capturing an unlicensed dog or making an examination of a dog wearing a tag.

(ORC 955.24)

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 955.99(A))

505.15 DOGS WITH BLIND PERSONS.

(a) When a blind person is accompanied by a dog which serves as a guide or leader for him, and he can show proof by certificate or other means that the dog leading him has been trained for that purpose by some special agency engaged in such work, the person is entitled to the full and equal accommodations, advantages, facilities and privileges of all public conveyances, hotels and lodging places, all places of public accommodation, amusement or resort, and other places to which the general public is invited, and may take the dog into such conveyances and places, subject only to the conditions and limitations applicable to all persons not so accompanied, except that:

(1) The dog shall not occupy a seat in any public conveyance.

(2) The dog shall be upon a leash while using the facilities of a common carrier.

(b) No person shall deprive a blind person of any of the advantages, facilities or privileges provided in subsection (a) hereof, nor charge the blind person a fee or charge for the dog. (ORC 955.43)

(c) Whoever violates any provision of this section shall be guilty of a misdemeanor of the fourth degree. (ORC 955.99(C))

505.16 DANGEROUS WILD ANIMALS AND RESTRICTED SNAKES.

(a) For purposes of this section, "dangerous wild animal" and "restricted snake" have the same meanings as set forth in Ohio R.C. 935.01.

(b) (1) Except for a restricted snake specified in Ohio R.C. 935.01(L)(1), no person shall sell or offer for sale at auction a dangerous wild animal or restricted snake.

(2) Except for a microchip removed for purposes of a medical emergency by a veterinarian that is qualified to provide veterinary care to the dangerous wild animal, no person shall knowingly remove a microchip that is implanted in a dangerous wild animal as required in Ohio R.C. 935.04.

(3) No person that possesses a dangerous wild animal or restricted snake shall fail to post and display any of the following:

A. On each cage in which a dangerous wild animal is confined, signs warning the public that a dangerous wild animal is confined in the cage;

B. At each entrance to the property where a dangerous wild animal is confined, a sign warning the public that a dangerous wild animal is

on the property;

C. On each container in which a restricted snake is confined, a sign warning the public that a restricted snake is in the container;

D. At the main entrance to each structure where a restricted snake is confined, a sign warning the public that a restricted snake is in the structure;

E. On a vehicle that is used to transport a dangerous wild animal or restricted snake, a sign warning that a dangerous wild animal or restricted snake, as applicable, is in the vehicle.

The signs shall comply with standards established in rules adopted by the State Director of Agriculture.

(4) No person shall allow a dangerous wild animal or restricted snake to roam off the property where it is confined.

(5) No person shall remove any teeth or claws from a dangerous wild animal or restricted snake, as applicable, unless determined to be medically necessary by a veterinarian. (ORC 935.18)

(c) Whoever violates this section is guilty of a misdemeanor of the first degree on the first offense. On a second or subsequent offense, such person is guilty of a felony and shall be prosecuted under appropriate State law. (ORC 935.99)

505.17 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)

505.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 509

Disorderly Conduct and Peace Disturbance

509.01 Riot.

509.011 Inciting to violence.

509.02 Failure to disperse.

509.03 Disorderly conduct; intoxication.

509.04 Disturbing a lawful meeting.

509.05 Misconduct at an emergency.

509.06 Inducing panic.

509.07 Making false alarms.

509.08 Curfew.

509.09 Loitering.

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 that 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) If a person appears to an ordinary observer 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 subsections (e)(3) and (e)(4), 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.
- (4) If an offender previously has been convicted of or pleaded guilty to three or more violations of subsection (b) of this section, a violation of subsection (b) of this section is a misdemeanor of the fourth degree.
- (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 misdemeanor of the fourth degree. 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.

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 minor under the age of eighteen years shall loiter or be upon or in any street, alley, sidewalk, park or other public place between the hours of 11:00 p.m. and 6:00 a.m. of the next day.

However, such a minor may be upon or in any street, alley, sidewalk or other public place between such hours in the scope of lawful employment.

Such a minor may also be upon or in any alley, street, sidewalk, park or other public place between such hours when he or she is in the company of his or her parent or parents or his or her legal guardian or person having the legal care, custody and control of such minor.

(b) No parent, guardian or other person having the legal care, custody and control of any minor under the age of eighteen years shall knowingly permit such minor to be upon or in any street, alley, sidewalk, park or other public place between the hours of 11:00 p.m. and 6:00 a.m. of the next day.

(c) Any minor under the age of eighteen years violating subsection (a) hereof shall be ordered home by the police or be taken into the custody of the Police Department and turned over to the Juvenile Court of the County, or to an officer of such Court, to be dealt with in accordance with Juvenile Court law and procedure. (Ord. 177. Passed 8-25-47.)

(d) Whoever violates subsection (b) hereof is guilty of a minor misdemeanor.

509.09 LOITERING.

(a) No person shall loiter or prowl in any public or private place at a time, in a manner or under circumstances which warrant alarm for the safety of persons or security of property in the surrounding area.

Without limitation, the following circumstances may be considered in determining whether such alarm is warranted:

- (1) The flight of a person upon the appearance of a police officer;
- (2) Attempted concealment by a person upon the appearance of a police officer; and
- (3) The systematic checking by a person of doors, windows or other means of access to buildings, houses or vehicles.

(b) Unless flight by the actor or other circumstances make it impracticable, a police officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true, and if believed by the police officer at the time, would have dispelled the alarm.

(c) For the purposes of this section:

- (1) "Loitering" includes the following activities: lingering, hanging around, delaying, sauntering and moving slowly about, where such conduct is not due to physical defects or conditions.
- (2) "Private place" means a place privately owned but open to the public generally, such as a shopping center, a retail store, a transportation terminal, a movie theater, an office building, a restaurant and all distinctly private places such as homes or private residences and apartment houses.
- (3) "Public place" means a public street and alleyway, a public restroom, a public sidewalk, a public park, a public building and a Municipal airport.
- (4) "Surrounding area" means that area easily and immediately accessible to the person under observation.

(d) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor.

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.

513.02 Gift of marihuana.

513.03 Drug abuse; controlled substance possession or use.

513.04 Possessing drug abuse instruments.

513.05 Permitting drug abuse.

513.06 Illegal cultivation of marihuana.

513.07 Possessing or using harmful intoxicants.

513.08 Illegally dispensing drug samples.

513.09 Controlled substance or prescription labels.

513.10 Hypodermic possession, display and dispensing.

513.11 Harmful intoxicants; possessing nitrous oxide in motor vehicle.

513.12 Drug paraphernalia.

513.121 Marihuana drug paraphernalia.

513.13 Counterfeit controlled substances.

513.14 Offender may be required to pay for controlled substance tests.

513.15 Medical marijuana cultivators, processors and retail dispensaries prohibited.

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.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words, terms and phrases and their derivatives used in this chapter which are not defined in this section shall have the meanings given to them in the Ohio Revised Code.

- (a) "Administer." Has the same meaning as in Ohio R.C. 3719.01.
- (b) "Adulterate." To cause a drug to be adulterated as described in Ohio R.C. 3715.63.
- (c) "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 any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in subsection (c)(2), (5), or (6) of this definition, 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 (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws, as defined in this section, 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 (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws;
 - (2) 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 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;
 - (6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V, if the defendant is charged with a violation of Ohio R.C. 2925.11 and the sentencing provisions set forth in Ohio R.C. 2925.11(C)(10)(b) and (C)(11) will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (1), (2), (3), (4), or (5) of this definition for the other Schedule III, Schedule IV, or Schedule V controlled substance that is combined with the fentanyl-related compound.
- (d) "Certified grievance committee." A duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the state that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.
- (e) "Cocaine." Any of the following:
 - (1) A cocaine salt, isomer or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine.
 - (2) Coca leaves or a salt, compound, derivative or preparation of coca leaves, including ecgonine, a salt, isomer or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine.
 - (3) A salt, compound, derivative or preparation of a substance identified in subsection (e)(1) or (2) of this definition that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.
- (f) "Committed in the vicinity of a juvenile." An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within 100 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 100 feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.
- (g) "Committed in the vicinity of a school." 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 1,000 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 1,000 feet of the boundaries of any school premises.
- (h) "Controlled substance." Has the same meaning as in Ohio R.C. 3719.01.
- (i) "Controlled substance analog." Has the same meaning as in Ohio R.C. 3719.01.
- (j) "Counterfeit controlled substance." Any of the following:
 - (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 the trademark, trade name or identifying mark.
 - (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.
 - (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance.
 - (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 markings, labeling, packaging, distribution or the price for which it is sold or offered for sale.
- (k) "Cultivate." Includes planting, watering, fertilizing or tilling.
- (l) "Dangerous drug." Has the same meaning as in Ohio R.C. 4729.01.
- (m) "Deception." Has the same meaning as in Ohio R.C. 2913.01.

- (n) "Disciplinary counsel." The disciplinary counsel appointed by the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court under the Rules for the Government of the Bar of Ohio.
- (o) "Dispense." Has the same meaning as in Ohio R.C. 3719.01.
- (p) "Distribute." Has the same meaning as in Ohio R.C. 3719.01.
- (q) "Drug." Has the same meaning as in Ohio R.C. 4729.01.
- (r) "Drug abuse offense." Any of the following:
- (1) A violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs, or any violation of Ohio R.C. 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37.
 - (2) A violation of an existing or former law of any municipality, state or of the United States, that is substantially equivalent to any section listed in subsection (r)(1) of this definition.
 - (3) An offense under an existing or former law of any municipality, 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 to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under subsection (r)(1), (2) or (3) of this definition.
- (s) "Drug dependent person." Has the same meaning as in Ohio R.C. 3719.011.
- (t) "Drug of abuse." Has the same meaning as in Ohio R.C. 3719.011.
- (u) "Felony drug abuse offense." Any drug abuse offense that would constitute a felony under the laws of this state, any other state or the United States.
- (v) "Fentanyl-related compound." Any of the following:
- (1) Fentanyl;
 - (2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
 - (3) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide);
 - (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidyl]-N-phenylpropanamide);
 - (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidyl]-N-phenylpropanamide);
 - (6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
 - (7) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide);
 - (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidyl]propanamide);
 - (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidyl]-propanamide);
 - (10) Alfentanil;
 - (11) Carfentanil;
 - (12) Remifentanil;
 - (13) Sufentanil;
 - (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidyl]-N-phenylacetamide); and
 - (15) Any compound that meets all of the following fentanyl pharmacophore requirements to bind at the mu receptor, as identified by a report from an established forensic laboratory, including acetyl fentanyl, furanylfentanyl, valerylfentanyl, butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, para-fluorobutyrylfentanyl, acrylfentanyl, and ortho-fluorofentanyl:
 - A. A chemical scaffold consisting of both of the following:
 1. A five, six, or seven member ring structure containing a nitrogen, whether or not further substituted;
 2. An attached nitrogen to the ring, whether or not that nitrogen is enclosed in a ring structure, including an attached aromatic ring or other lipophilic group to that nitrogen.
 - B. A polar functional group attached to the chemical scaffold, including but not limited to a hydroxyl, ketone, amide, or ester;
 - C. An alkyl or aryl substitution off the ring nitrogen of the chemical scaffold; and
 - D. The compound has not been approved for medical use by the United States food and drug administration.
- (w) "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.
- (x) "Hashish".
- (1) A resin or a preparation of a resin to which both of the following apply:
 - A. It is contained in or derived from any part of the plant of the genus cannabis, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.
 - B. It has a delta-9 tetrahydrocannabinol concentration of more than 0.3%.
 - (2) The term does not include a hemp byproduct in the possession of a licensed hemp processor under Ohio R.C. Chapter 928, provided that the hemp byproduct is being produced, stored, and disposed of in accordance with rules adopted under Ohio R.C. 928.03.
- (y) "Hypodermic." Has the same meaning as in Ohio R.C. 3719.01.
- (z) "Juvenile." A person under eighteen years of age.
- (aa) "Licensed health professional authorized to prescribe drugs." Has the same meaning as in Ohio R.C. 4729.01.
- (bb) "L.S.D." Lysergic acid diethylamide.
- (cc) "Major drug offender." Has the same meaning as in Ohio R.C. 2929.01.
- (dd) "Mandatory prison term." Has the same meaning as in Ohio R.C. 2929.01.
- (ee) "Manufacture." 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.
- (ff) "Manufacturer." Has the same meaning as in Ohio R.C. 3719.01.
- (gg) "Marihuana." Has the same meaning as in Ohio R.C. 3719.01, except that it does not include hashish.
- (hh) "Methamphetamine." 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.
- (ii) "Minor drug possession offense." Either of the following:
- (1) A violation of Ohio R.C. 2925.11, as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance.
 - (2) A violation of Ohio R.C. 2925.11, as it exists on and after July 1, 1996, or a substantially equivalent municipal ordinance, that is a misdemeanor or a felony of the fifth degree.
- (jj) "Official written order." Has the same meaning as in Ohio R.C. 3719.01.
- (kk) "Person." Has the same meaning as in Ohio R.C. 3719.01.
- (ll) "Pharmacist." Has the same meaning as in Ohio R.C. 3719.01.
- (mm) "Pharmacy." Has the same meaning as in Ohio R.C. 3719.01.

- (nn) "Possess" or "possession." 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.
- (oo) "Prescription." Has the same meaning as in Ohio R.C. 4729.01.
- (pp) "Presumption for a prison term" or "presumption that a prison term shall be imposed." A presumption as described in Ohio R.C. 2929.13(D) that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under Ohio R.C. 2929.11.
- (qq) "Professional license." Any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate or temporary registration that is described in Ohio R.C. 2925.01(W)(1) to (W)(37) and that qualifies a person as a professionally licensed person.
- (rr) "Professionally licensed person." Any of the following:
 - (1) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under Ohio R.C. Chapter 4701 and who holds an Ohio permit issued under that chapter;
 - (2) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Ohio R.C. Chapter 4703;
 - (3) A person who is registered as a landscape architect under Ohio R.C. Chapter 4703 or who holds a permit as a landscape architect issued under that chapter;
 - (4) A person licensed under Ohio R.C. Chapter 4707;
 - (5) A person who has been issued a certificate of registration as a registered barber under Ohio R.C. Chapter 4709;
 - (6) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Ohio R.C. Chapter 4710;
 - (7) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, advanced cosmetologist's license, advanced hair designer's license, advanced manicurist's license, advanced esthetician's license, advanced natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under Ohio R.C. Chapter 4713;
 - (8) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license or a dental hygienist's teacher's certificate under Ohio R.C. Chapter 4715;
 - (9) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under Ohio R.C. Chapter 4717;
 - (10) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Ohio R.C. Chapter 4723;
 - (11) A person who has been licensed to practice optometry or to engage in optical dispensing under Ohio R.C. Chapter 4725;
 - (12) A person licensed to act as a pawnbroker under Ohio R.C. Chapter 4727;
 - (13) A person licensed to act as a precious metals dealer under Ohio R.C. Chapter 4728;
 - (14) A person licensed under Ohio R.C. Chapter 4729 as a pharmacist or pharmacy intern or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;
 - (15) A person licensed under Ohio R.C. Chapter 4729 as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs;
 - (16) A person who is authorized to practice as a physician assistant under Ohio R.C. Chapter 4730;
 - (17) A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under Ohio R.C. Chapter 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;
 - (18) A person licensed as a psychologist or school psychologist under Ohio R.C. Chapter 4732;
 - (19) A person registered to practice the profession of engineering or surveying under Ohio R.C. Chapter 4733;
 - (20) A person who has been issued a license to practice chiropractic under Ohio R.C. Chapter 4734;
 - (21) A person licensed to act as a real estate broker or real estate salesperson under Ohio R.C. Chapter 4735;
 - (22) A person registered as a registered sanitarian under Ohio R.C. Chapter 4736;
 - (23) A person licensed to operate or maintain a junkyard under Ohio R.C. Chapter 4737;
 - (24) A person who has been issued a motor vehicle salvage dealer's license under Ohio R.C. Chapter 4738;
 - (25) A person who has been licensed to act as a steam engineer under Ohio R.C. Chapter 4739;
 - (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Ohio R.C. Chapter 4741;
 - (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Ohio R.C. Chapter 4747;
 - (28) A person who has been issued a class A, class B or class C license or who has been registered as an investigator or security guard employee under Ohio R.C. Chapter 4749;
 - (29) A person licensed to practice as a nursing home administrator under Ohio R.C. Chapter 4751;
 - (30) A person licensed to practice as a speech-language pathologist or audiologist under Ohio R.C. Chapter 4753;
 - (31) A person issued a license as an occupational therapist or physical therapist under Ohio R.C. Chapter 4755;
 - (32) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under Ohio R.C. Chapter 4757;
 - (33) A person issued a license to practice dietetics under Ohio R.C. Chapter 4759;
 - (34) A person who has been issued a license or limited permit to practice respiratory therapy under Ohio R.C. Chapter 4761;
 - (35) A person who has been issued a real estate appraiser certificate under Ohio R.C. Chapter 4763;
 - (36) A person who has been issued a home inspector license under Ohio R.C. Chapter 4764;
 - (37) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.
- (ss) "Public premises." Any hotel, restaurant, tavern, store, arena, hall or other place of public accommodation, business, amusement or resort.
- (tt) "Sale." Has the same meaning as in Ohio R.C. 3719.01.
- (uu) "Sample drug." 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.
- (vv) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" or "Schedule V." Have the same meaning as in Ohio R.C. 3719.01.
- (ww) "School." 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.
- (xx) "School building." 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.
- (yy) "School premises." 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, the governing authority of a 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.
- (zz) "Standard Pharmaceutical Reference Manual." The current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.
- (aaa) "Unit dose." An amount or unit or 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.
- (bbb) "Wholesaler." Has the same meaning as in Ohio R.C. 3719.01.
(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:
- 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.
 - 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;
 - 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;
 - Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs if the prescription was issued for a legitimate medical purpose and not altered, forged or obtained through deception or commission of a theft offense.
- As used in subsection (b)(1)D. of this section, "deception" and "theft offense" have the same meanings as in Ohio R.C. 2913.01.
- (2) A. As used in subsection (b)(2) of this section:
- "Community addiction services provider" has the same meaning as in Ohio R.C. 5119.01.
 - "Community control sanction" and "drug treatment program" have the same meanings as in Ohio R.C. 2929.01.
 - "Health care facility" has the same meaning as in Ohio R.C. 2919.16.
 - "Minor drug possession offense" means a violation of this section that is a misdemeanor or a felony of the fifth degree.
 - "Post-release control sanction" has the same meaning as in Ohio R.C. 2967.28.
 - "Peace officer" has the same meaning as in Ohio R.C. 2935.01.
 - "Public agency" has the same meaning as in Ohio R.C. 2930.01.
 - "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.
 - "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:
- 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.
 - 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.
 - 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:
- Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
 - 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, 2925.03, 2925.04 or 2925.041 as provided in Ohio R.C. 2925.13, 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) As used in this section, "repackager" and "outsourcing facility" have the same meanings as in ORC 4729.01.

Whenever a manufacturer sells a controlled substance, and whenever a wholesaler, repackager, or outsourcing facility sells a controlled substance in a package the wholesaler, repackager or outsourcing facility has prepared, the manufacturer or the wholesaler, repackager or outsourcing facility, as the case may be, shall securely affix to each package in which the controlled substance is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of controlled substance contained therein. No person, except a pharmacist for the purpose of dispensing a controlled substance upon a prescription shall alter, deface or remove any label so affixed.

(b) Except as provided in subsection (c) of this section, when a pharmacist dispenses any controlled substance on a prescription for use by a patient, or supplies a controlled substance to a licensed health professional authorized to prescribe drugs for use by the professional in personally furnishing patients with controlled substances, the pharmacist shall affix to the container in which the controlled substance is dispensed or supplied a label showing the following:

- (1) The name and address of the pharmacy dispensing or supplying the controlled substance;
 - (2) The name of the patient for whom the controlled substance is prescribed and, if the patient is an animal, the name of the owner and the species of the animal;
 - (3) The name of the prescriber;
 - (4) All directions for use stated on the prescription or provided by the prescriber;
 - (5) The date on which the controlled substance was dispensed or supplied;
 - (6) The name, quantity and strength of the controlled substance and, if applicable, the name of the distributor or manufacturer.
- (c) The requirements of subsection (b) of this section do not apply when a controlled substance is prescribed or supplied for administration to an ultimate user who is institutionalized.
- (d) A licensed health professional authorized to prescribe drugs who personally furnishes a controlled substance to a patient shall comply with division (A) of ORC 4729.291 with respect to labeling and packaging of the controlled substance.
- (e) No person shall alter, deface, or remove any label affixed pursuant to this section as long as any of the original contents remain.
- (f) Every label for a schedule II, III or IV controlled substance shall contain the following warning:
 "Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed".
 (ORC 3719.08)
- (g) 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)

513.15 MEDICAL MARIJUANA CULTIVATORS, PROCESSORS AND RETAIL DISPENSARIES PROHIBITED.

The operation of medical marijuana cultivators, processors and retail dispensaries, as defined by the Ohio Revised Code, is banned and strictly prohibited in all zoning districts in the Village of Carrollton or anywhere within the Village of Carrollton Corporation Limits, as allowed by Ohio R.C. 3796.29.

(Ord. 2017-51. Passed 12-21-17.)

513.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 517

Gambling

517.01 Definitions.

517.02 Gambling.

517.03 Operating a gambling house.

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517.05 Cheating.

517.06 Methods of conducting a bingo game; prohibitions.

517.07 Instant bingo conduct.

517.08 Raffles.

517.09 Charitable instant bingo organizations.

517.10 Location of instant bingo.

517.11 Bingo or game of chance records.

517.12 Bingo operator prohibitions.

517.13 Bingo exceptions.

517.14 Instant bingo conduct by a veteran's or fraternal organization.

517.15 Skill-based amusement machines.

517.99 Penalty.

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) Conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility and either:
 - A. Give to another person any item described in subsection (vv)(1), (2), (3) or (4) of Section 517.01 as a prize for playing or participating in a sweepstakes; or
 - B. Give to another person any merchandise prize, or a redeemable voucher for a merchandise prize, the wholesale value of which is in excess of ten dollars and which is awarded as a single entry for playing or participating in a sweepstakes. Redeemable vouchers shall not be redeemable for a merchandise prize that has a wholesale value of more than ten dollars.
- (6) Conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility without first obtaining a current annual "certificate of registration" from the Attorney General as required by division (F) of Ohio R.C. 2915.02.
- (7) With purpose to violate subsection (a)(1), (2), (3), (4), (5) or (6) 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.**
- 521.02 Venting of heaters and burners.**
- 521.03 Barricades and warning lights; abandoned excavations.**
- 521.04 Sidewalk obstructions; damage or injury.**
- 521.05 Notice to fill lots, remove putrid substances.**
- 521.06 Duty to keep sidewalks in repair and clean.**
- 521.07 Fences.**
- 521.08 Littering and deposit of garbage, rubbish, junk, etc.**
- 521.09 Noxious or offensive odors.**
- 521.10 Nonsmoking areas in places of public assembly.**
- 521.101 Smoking in Municipal Building prohibited.**
- 521.11 Spitting.**
- 521.12 Water emergency.**
- 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 gases:

- (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 hazard 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 100 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 pick-up of such articles. In no 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 FENCES.

(a) No person shall erect or maintain any fence charged with electrical current.

(b) No person shall erect or maintain a barbed wire fence which abuts or is adjacent to any public street or sidewalk. This subsection (b) 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 seventy-two inches from the ground.

(c) Whoever violates this section is guilty of a minor misdemeanor.

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) "Auxiliary container" means a bag, can, cup, food or beverage service item, container, keg, bottle, or other packaging to which all of the following apply:
 - A. It is designed to be either single use or reusable.
 - B. It is made of cloth, paper, plastic, foamed or expanded plastic, cardboard, corrugated material, aluminum, metal, glass, postconsumer recycled material, or similar materials or substances, including coated, laminated, or multilayered substrates.
 - C. It is designed for consuming, transporting, or protecting merchandise, food, or beverages from or at a food service operation, retail food establishment, grocery, or any other type of retail, manufacturing, or distribution establishment.
- (2) "Deposit" means to throw, drop, discard, or place.
- (3) "Litter" includes garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, auxiliary containers, or anything else of an unsightly or unsanitary nature.
- (4) "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 NONSMOKING AREAS IN PLACES OF PUBLIC ASSEMBLY.

(a) As used in this section, "place of public assembly" means:

- (1) Enclosed theaters, except the lobby; opera houses; auditoriums; classrooms; elevators; rooms in which persons are confined as a matter of health care, including but not limited to a hospital room and a room in a rest home serving as the residence of a person living in such rest home;
- (2) All buildings and other enclosed structures owned by the State, its agencies or political subdivisions, including but not limited to hospitals and State institutions for the mentally ill and persons with intellectual disabilities; university and college buildings, except rooms within those buildings used primarily as the residences of students or other persons affiliated with the university or college; office buildings; libraries; museums; and vehicles used in public transportation. That portion of a building or other enclosed structure that is owned by the State, a State agency or a political subdivision and that is used primarily as a food service establishment is not a place of public assembly.
- (3) Each portion of a building or enclosed structure that is not included in subsection (a)(1) or (2) hereof is a place of public assembly if it has a seating capacity of fifty or more persons and is available to the public. Restaurants, food service establishments, dining rooms, cafes, cafeterias or other rooms used primarily for the service of food, as well as bowling alleys and places licensed by the Department of Liquor Control to sell intoxicating beverages for consumption on the premises, are not places of public assembly.

(b) For the purpose of separating persons who smoke from persons who do not smoke for the comfort and health of persons not smoking, in every place of public assembly there shall be an area where smoking is not permitted, which shall be designated a no smoking area. Provided that, no more than one-half of the rooms in any health care facility in which persons are confined as a matter of health care may be designated as smoking areas in their entirety. The designation shall be made before the place of public assembly is made available to the public. In places included in subsection (a)(1) hereof the local fire authority having jurisdiction shall designate no smoking area. In places included in subsection (a)(2) hereof that are owned by the Municipality, Council shall designate an officer who shall designate the area. In places included in subsection (a)(3) hereof, the person having control of the operations of the place of public assembly shall designate the no smoking area. In places included in subsection (a)(2) hereof which are also included in subsection (a)(1) hereof, the officer who has authority to designate the area in places in subsection (a)(2) hereof shall designate the no smoking area. A no smoking area may include the entire place of public assembly. Designations shall be made by the placement of signs that are clearly visible and that state "NO SMOKING". No person shall remove signs from areas designated as no smoking areas.

(c) This section does not affect or modify the prohibition contained in Ohio R.C. 3313.751(B).

(d) No person shall smoke in any area designated as a no smoking area in accordance with subsection (b) hereof or Ohio R.C. 3791.031.

(e) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 3791.031)

521.101 SMOKING IN MUNICIPAL BUILDING PROHIBITED.

(a) The entire Municipal Building located at 80 Second Street S.W., Carrollton, Ohio, including but not limited to the fire house, Mayor's Office, Police Department, Clerk's Office, Council Rooms, Computer Room, storage rooms, restrooms, basement and hallways shall be designated a No Smoking Building wherein no smoking shall be permitted by any person.

(b) No smoking signs shall be placed in prominent places within the Municipal Building.

(c) No person shall be permitted to smoke within the Carrollton Municipal Building located at 80 Second Street, S.W., Carrollton, Ohio.

(d) Whoever violates this section is guilty of a minor misdemeanor.

(Ord. 1990-05. Passed 6-11-90.)

521.11 SPITTING.

(a) No person shall spit upon any sidewalk, in any doorway or hallway, upon any step along any street or sidewalk, or in any public hall or room, within the corporate limits of the Municipality. (Ord. 1-A-1944. 'Passed 8-14-44.)

(b) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor.

521.12 WATER EMERGENCY.

(a) (1) At any time it becomes necessary to require mandatory conservation of water by consumers of the Village water system due to weather conditions, mechanical failure or any other event effecting the public water supply of the Village, the Board of

Trustees of Public Affairs may declare a water emergency and impose mandatory conservation of water as provided in subsection (b) hereof.

- (2) If the emergency is of such nature that the Board of Public Affairs cannot meet in sufficient time to react to the emergency, the Superintendent of the Water Department or, in his absence, the Mayor may declare a water emergency and impose restrictions upon the consumption of public water. In the event that such emergency is declared by the Superintendent of the Water Department or the Mayor, the Board of Public Affairs shall meet at the earliest possible time following the declaration of a water emergency by the Superintendent or Mayor, to ratify or reject his declaration.

(b) Upon the declaration of a water emergency as provided in subsection (a) hereof, the Board of Public Affairs, Superintendent or Mayor, may impose the following restrictions upon the consumption of public water:

- (1) A prohibition of the use of public water for lawn and garden irrigation, washing of motor vehicles, filling of private swimming pools and/or any other non-essential use.
- (2) A limitation on the use of water for lawn and garden irrigation to certain hours and certain days at the discretion of the Board of Public Affairs, Superintendent or Mayor.
- (3) A prohibition on the sale of bulk water for non-essential purposes such as, but not necessarily limited to the filling of private swimming pools.
- (4) Any combination of the above restrictions.
- (5) Any other lawful restriction on the consumption of public water reasonably necessary to meet the needs of the water emergency.

(c) Any person, firm or corporation who violates any restriction on the consumption of public water imposed by the Board of Public Affairs, Superintendent or Mayor, as provided for in this chapter, shall be guilty of a minor misdemeanor upon first offense and a misdemeanor of the fourth degree upon conviction of a subsequent offense.

(Ord. 1988-20. Passed 7-11-88.)

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.

525.02 Falsification.

525.03 Impersonation of peace officer.

525.04 Compounding a crime.

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525.06 Failure to aid a law enforcement officer.

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525.11 Soliciting or receiving improper compensation.

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525.13 Interfering with civil rights.

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525.15 Assaulting police dog or horse or an assistance dog.

525.16 False allegation of peace officer misconduct.

525.17 Refusal to disclose personal information in public place.

525.99 Penalty.

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 his 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.

529.02 Sales to and use by underage persons; securing public accommodations.

529.021 Purchase by minor; misrepresentation.

529.03 Sales to intoxicated persons.

529.04 Liquor consumption in motor vehicle.

529.05 Permit required.

529.06 Low-alcohol beverages: sale to and purchase by underage persons prohibited.

529.07 Open container prohibited.

529.08 Hours of sale or consumption.

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, D-8, 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 either of the following:

A. An orchestral performance and the F-9 permit holder 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;

B. An outdoor performing arts event or orchestral performance that is free of charge and the F-9 permit holder annually hosts not less than twenty-five other events or performances that are free of charge on the permit premises.

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 an A-1, A-1-A, A-1c, A-2, A-2f, D class or F class 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 possession is otherwise authorized under subsection (d) or (e) of this section.
 - C. As used in subsection (c)(7) of this section, "D class permit holder" does not include a D-6 or D-8 permit holder.
 - (8) A. A person may have in the person's possession on the property of a market, within a defined F-8 permit premises, an opened container of beer or intoxicating liquor that was purchased from a D permit premises that is located immediately adjacent to the market if both of the following apply:
 1. The market grants permission for the possession and consumption of beer and intoxicating liquor within the defined F-8 permit premises;
 2. The market is hosting an event pursuant to an F-8 permit and the market has notified the Division of Liquor Control about the event in accordance with division (A)(3) of Ohio R.C. 4303.208.
 - B. As used in subsection (c)(8) of this section, market means a market, for which an F-8 permit is held, that has been in operation since 1860.
 - (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 an 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 of 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.
 - (g) This section does not apply to a person that has in the person's possession an opened container of beer or intoxicating liquor on the premises of a market if the beer or intoxicating liquor has been purchased from a D liquor permit holder that is located in the market.
- As used in subsection (g) of this section, "market" means an establishment that:
- (1) Leases space in the market to individual vendors, not less than fifty percent of which are retail food establishments or food service operations licensed under Ohio R.C. Chapter 3717;
 - (2) Has an indoor sales floor area of not less than twenty-two thousand square feet;
 - (3) Hosts a farmer's market on each Saturday from April through December.
- (ORC 4301.62)
- (h) (1) As used in this section, "alcoholic beverage" has the same meaning as in Ohio R.C. 4303.185.
 - (2) An alcoholic beverage in a closed container being transported under Ohio R.C. 4303.185 to its final destination is not an opened container for the purposes of this section if the closed container is securely sealed in such a manner that it is visibly apparent if the closed container has been subsequently opened or tampered with after sealing.
- (ORC 4301.62)
- (i) 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-1c, 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-5H, D-5K, D-8, F, F-1, F-2, F-3, F-4, F-5, F-6, F-7, F-8, F-9, 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-5G, D-5I, D-5J, D-5L, D-5m, D-5n, D-5o, 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.

533.02 Presumption of knowledge; actual notice and defense.

533.03 Unlawful sexual conduct with a minor.

533.04 Sexual imposition.

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533.10 Prostitution.

533.11 Disseminating matter harmful to juveniles.

533.12 Deception to obtain matter harmful to juveniles.

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533.15 Dissemination of private sexual images.

533.99 Penalty.

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 or pleaded guilty to a violation of Ohio R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06 or former Section 2907.12, or a substantially similar municipal ordinance, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 2907.02, 2907.03, 2907.04 or 2907.05, 2907.06 or former Section 2907.12 or of any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in Ohio R.C. 2929.24, the court may impose on the offender a definite jail term of not more than one year.

(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 in the person's physical proximity, who is a minor, and who is not the spouse of the offender:

(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.

(d) (1) If either of the following applies, the court may determine at the time of sentencing whether to classify the offender as a tier I sex offender/child-victim offender for a violation of subsection (b)(4) of this section:

A. The offender is less than ten years older than the other person.

B. The offender is ten or more years older than the other person and the offender has not previously been convicted of or pleaded guilty to any violation of this section.

(2) If the offender is convicted of or pleads guilty to a violation of subsection (b)(4) of this section, is ten or more years older than the other person, and previously has been convicted of or pleaded guilty to any violation of this section, the court shall issue an order at the time of sentencing that classifies the offender as a tier I sex offender/child-victim offender subject to registration under Ohio R.C. 2950.04, 2950.041, 2950.05 and 2950.06.

(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 MESSAGE.

(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)

533.15 DISSEMINATION OF PRIVATE SEXUAL IMAGES.

(a) As used in this section:

(1) "Disseminate" means to post, distribute, or publish on a computer device, computer network, web site, or other electronic device or medium of communication.

(2) "Image" means a photograph, film, videotape, digital recording or other depiction or portrayal of a person.

(3) "Interactive computer service" has the meaning defined in the "Telecommunications Act of 1996", 47 U.S.C. 230, as amended.

(4) "Internet provider" means a provider of internet service, including all of the following:

A. Broadband service, however defined or classified by the federal communications commission;

B. Information service or telecommunication service, both as defined in the "Telecommunications Act of 1996" 47 U.S.C. 153, as amended.

C. Internet protocol-enabled services, as defined in Ohio R.C. 4927.01.

(5) "Mobile service" and "telecommunications carrier" have the meanings defined in 47 U.S.C. 153, as amended.

(6) "Cable service provider" has the same meaning as in Ohio R.C. 1332.01.

(7) "Direct-to-home satellite service" has the meaning defined in 47 U.S.C. 303, as amended.

(8) "Video service provider" has the same meaning as in Ohio R.C. 1332.21.

(9) "Sexual act" means any of the following:

A. Sexual activity;

B. Masturbation;

C. An act involving a bodily substance that is performed for the purpose of sexual arousal or gratification;

D. Sado-masochistic abuse.

(b) No person shall knowingly disseminate an image of another person if all of the following apply:

(1) The person in the image is eighteen years of age or older;

(2) The person in the image can be identified from the image itself or from information displayed in connection with the image and the offender supplied the identifying information.

- (3) The person in the image is in a state of nudity or is engaged in a sexual act;
- (4) The image is disseminated without consent from the person in the image;
- (5) The image is disseminated with intent to harm the person in the image.
- (c) This section does not prohibit the dissemination of an image if any of the following apply:
 - (1) The image is disseminated for the purpose of a criminal investigation that is otherwise lawful.
 - (2) The image is disseminated for the purpose of, or in connection with, the reporting of unlawful conduct.
 - (3) The image is part of a news report or commentary or an artistic or expressive work, such as a performance, work of art, literary work, theatrical work, musical work, motion picture, film, or audiovisual work.
 - (4) The image is disseminated by a law enforcement officer, or a corrections officer or guard in a detention facility, acting within the scope of the person's official duties.
 - (5) The image is disseminated for another lawful public purpose;
 - (6) The person in the image is knowingly and willingly in a state of nudity or engaged in a sexual act and is knowingly and willingly in a location in which the person does not have a reasonable expectation of privacy.
 - (7) The image is disseminated for the purpose of medical treatment or examination.
- (d) The following entities are not liable for a violation of this section solely as a result of an image or other information provided by another person:
 - (1) A provider of interactive computer service;
 - (2) A mobile service;
 - (3) A telecommunications carrier;
 - (4) An internet provider;
 - (5) A cable service provider;
 - (6) A direct-to-home satellite service;
 - (7) A video service provider.
- (e) Any conduct that is a violation of this section and any other section of the General Offenses Code, or the Revised Code may be prosecuted under this section, the other section, or both sections.
- (f) (1) A. Except as otherwise provided in subsection (f)(1)B., C., or D. of this section, whoever violates this section is guilty of nonconsensual dissemination of private sexual images, a misdemeanor of the third degree.
 - B. If the offender previously has been convicted of or pleaded guilty to a violation of this section, nonconsensual dissemination of private sexual images is a misdemeanor of the second degree.
 - C. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, nonconsensual dissemination of private sexual images is a misdemeanor of the first degree.
 - D. If the offender is under eighteen years of age and the person in the image is not more than five years older than the offender, the offender shall not be prosecuted under this section.
- (2) In addition to any other penalty or disposition authorized or required by law, the court may order any person who is convicted of a violation of this section or who is adjudicated delinquent by reason of a violation of this section to criminally forfeit all of the following property to the state under Ohio R.C. Chapter 2981.
 - A. Any profits or proceeds and any property the person has acquired or maintained in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation;
 - B. Any interest in, securities of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise that the person has established, operated, controlled or conducted in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation.
- (g) A victim of a violation of this section may commence a civil cause of action against the offender, as described in Ohio R.C. 2307.66. (ORC 2917.211)

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.**
- 537.02 Vehicular homicide and manslaughter.**
- 537.021 Vehicular assault in a construction zone.**
- 537.03 Assault.**
- 537.04 Negligent assault.**
- 537.05 Aggravated menacing.**
- 537.051 Menacing by stalking.**
- 537.06 Menacing.**
- 537.07 Endangering children.**
- 537.08 Unlawful restraint.**
- 537.09 Coercion.**
- 537.10 Telecommunication harassment.**
- 537.11 Threatening or harassing telephone calls.**
- 537.12 Misuse of 9-1-1 system.**
- 537.13 Adulterating of or furnishing adulterated food or confection.**
- 537.14 Domestic violence.**
- 537.15 Temporary protection order.**
- 537.16 Illegal distribution of cigarettes, other tobacco products, or alternate nicotine products; transaction scans.**
- 537.17 Reserved.**
- 537.18 Contributing to unruliness or delinquency of a child.**
- 537.99 Penalty.**

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 communicate, 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 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 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 in the whole blood, blood serum or plasma, breath, or urine.

(2) As used in subsection (c) hereof, "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 repute, 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, of 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 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 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) Violating a protection order is a felony and shall be prosecuted under State law if the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for any of the following:

A. A violation of a protection order issued or consent agreement approved pursuant to Ohio R.C. 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31;

B. Two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211 or any combination of those offenses that involved the same person who is the subject of the protection order or consent agreement;

C. One or more violations of this section.

(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) In a prosecution for a violation of this section, it is not necessary for the prosecution to prove that the protection order or consent agreement was served on the defendant if the prosecution proves that the defendant was shown the protection order or consent agreement or a copy of either or a judge, magistrate, or law enforcement officer informed the defendant that a protection order or consent agreement had been issued, and proves that the defendant recklessly violated the terms of the order or agreement.

(e) 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; TRANSACTION SCANS.

(a) Illegal Distribution of Cigarettes, Other Tobacco Products, or Alternative Nicotine Products.

(1) As used in this section:

- A. "Age verification." 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 twenty-one years of age or older.
- B. "Alternative nicotine product."
 - 1. Subject to subsection (a)(1)B.2. of this section, an electronic smoking device, vapor product, 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.
 - 2. The phrase does not include any of the following:
 - a. Any cigarette or other tobacco product;
 - b. Any product that is a "drug" as that term is defined in 21 U.S.C. 321(g)(1);
 - c. Any product that is a "device" as that term is defined in 21 U.S.C. 321(h);
 - d. Any product that is a "combination product" as described in 21 U.S.C. 353(g).
- C. "Cigarette." Includes clove cigarettes and hand-rolled cigarettes.
- D. "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.
- E. "Electronic smoking device." Means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device including an electronic cigarette, electronic cigar, electronic hookah, vaping pen, or electronic pipe. The phrase includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).
- F. "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.
- G. "Tobacco product." Means any product that is made or derived from tobacco or that contains any form of nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. The phrase also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).
- H. "Vapor product." Means a product, other than a cigarette or other tobacco product as defined in Ohio R.C. Chapter 5743, that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. The phrase includes any component, part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g). The phrase includes any product containing nicotine, regardless of concentration.
- I. "Vending machine." Has the same meaning as "coin machine" in Ohio R.C. 2913.01.

- (2) 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:
 - A. Give, sell, or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any person under twenty-one years of age;
 - B. 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 legibly printed sign in letters at least one-half inch high stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under twenty-one years of age is prohibited by law;
 - C. Knowingly furnish any false information regarding the name, age, or other identification of any person under twenty-one years of age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that person;
 - D. 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;

- E. Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;
 - F. 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.
- (3) 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:
- A. An area within a factory, business, office, or other place not open to the general public;
 - B. An area to which persons under twenty-one years of age are not generally permitted access;
 - C. Any other place not identified in subsection (a)(3)A. or B. of this section, upon all of the following conditions:
 - 1. 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.
 - 2. The vending machine is inaccessible to the public when the place is closed.
 - 3. A clearly visible notice is posted in the area where the vending machine is located that states the following in letters that are legibly printed and at least one-half inch high: "It is illegal for any person under the age of twenty-one to purchase tobacco or alternative nicotine products."
- (4) The following are affirmative defenses to a charge under subsection (a)(2)A. of this section:
- A. The person under twenty-one years of age was accompanied by a parent, spouse who is twenty-one years of age or older, or legal guardian of the person under twenty-one years of age.
 - B. The person who gave, sold, or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under twenty-one years of age under subsection (a)(2)A. of this section is a parent, spouse who is twenty-one years of age or older, or legal guardian of the person under twenty-one years of age.
- (5) It is not a violation of subsection (a)(2)A. or B. of this section for a person to give or otherwise distribute to a person under twenty-one years of age cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes while the person under twenty-one years of age is participating in a research protocol if all of the following apply:
- A. The parent, guardian, or legal custodian of the person under twenty-one years of age has consented in writing to the person under twenty-one years of age participating in the research protocol.
 - B. An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol.
 - C. The person under twenty-one years of age is participating in the research protocol at the facility or location specified in the research protocol.
- (6) A. Whoever violates subsection (a)(2)A., B., D., E., or F. or (a)(3) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, 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 (a)(2)A., B., D., E., or F. or (a)(3) of this section or a substantially equivalent state law or municipal ordinance, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
- B. Whoever violates subsection (a)(2)C. of this section is guilty of permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, permitting a person under twenty-one years of age 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 (a)(2)C. of this section or a substantially equivalent state law or municipal ordinance, permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
- (7) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a person under twenty-one years of age in violation of this section and that are used, possessed, purchased, or received by a person under twenty-one years of age 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)

(b) Transaction Scan.

- (1) For the purpose of this subsection (b) and subsection (c) of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- A. "Card holder." Any person who presents a driver's or commercial driver's license or an identification card to a seller, or an agent or employee of a seller, to purchase or receive cigarettes, other tobacco products, or alternative nicotine products from a seller, agent or employee.
 - B. "Identification card." An identification card issued under Ohio R.C. 4507.50 to 4507.52.
 - C. "Seller." A seller of cigarettes, other tobacco products, or alternative nicotine products and includes any person whose gift of or other distribution of cigarettes, other tobacco products, or alternative nicotine products is subject to the prohibitions of subsection (a) of this section.
 - D. "Transaction scan." The process by which a seller or an agent or employee of a seller checks, by means of a transaction scan device, the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for purchasing or receiving cigarettes, other tobacco products, or alternative nicotine products.
 - E. "Transaction scan device." Any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver's or commercial driver's license or an identification card.
- (2) A. A seller or an agent or employee of a seller may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or commercial driver's license or identification card presented by a card holder as a condition for selling, giving away or otherwise distributing to the card holder cigarettes, other tobacco products, or alternative nicotine products.
- B. If the information deciphered by the transaction scan performed under subsection (b)(2)A. of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the seller nor any agent or employee of the seller shall sell, give away or otherwise distribute any cigarettes, other tobacco products, or alternative nicotine products to the card holder.
- C. Subsection (b)(2)A. of this section does not preclude a seller or an agent or employee of a seller from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or identification card, if the document includes a bar code or magnetic strip that may be scanned by the device, as a condition for selling, giving away or otherwise distributing cigarettes, other tobacco products, or alternative nicotine products to the person presenting the document.
- (3) Rules adopted by the Registrar of Motor Vehicles under Ohio R.C. 4301.61(C) apply to the use of transaction scan devices for purposes of this subsection (b) and subsection (c) of this section.
- (4) A. No seller or agent or employee of a seller shall electronically or mechanically record or maintain any information derived from a transaction scan, except for the following:

1. The name and date of birth of the person listed on the driver's or commercial driver's license or identification card presented by the card holder;
 2. The expiration date and identification number of the driver's or commercial driver's license or identification card presented by the card holder.
- B. No seller or agent or employee of a seller shall use the information that is derived from a transaction scan or that is permitted to be recorded and maintained under subsection (b)(4)A. of this section, except for purposes of subsection (c) of this section.
- C. No seller or agent or employee of a seller shall use a transaction scan device for a purpose other than the purpose specified in subsection (c)(2)A. of this section.
- D. No seller or agent or employee of a seller shall sell or otherwise disseminate the information derived from a transaction scan to any third party, including but not limited to selling or otherwise disseminating that information for any marketing, advertising or promotional activities, but a seller or agent or employee of a seller may release that information pursuant to a court order or as specifically authorized by subsection (c) of this section or another section of these Codified Ordinances or the Ohio Revised Code.
- (5) Nothing in this subsection (b) or subsection (c) of this section relieves a seller or an agent or employee of a seller of any responsibility to comply with any other applicable local, state or federal laws or rules governing the sale, giving away or other distribution of cigarettes, other tobacco products, or alternative nicotine products.
- (6) Whoever violates subsection (b)(2)B. or (b)(4) of this section is guilty of engaging in an illegal tobacco product or alternative nicotine product transaction scan, and the court may impose upon the offender a civil penalty of up to one thousand dollars (\$1,000) for each violation. The Clerk of the Court shall pay each collected civil penalty to the County Treasurer for deposit into the County Treasury.

(ORC 2927.021)

(c) Affirmative Defenses.

- (1) A seller or an agent or employee of a seller may not be found guilty of a charge of a violation of subsection (a) of this section in which the age of the purchaser or other recipient of cigarettes, other tobacco products, or alternative nicotine products is an element of the alleged violation, if the seller, agent or employee raises and proves as an affirmative defense that all of the following occurred:
 - A. A card holder attempting to purchase or receive cigarettes, other tobacco products, or alternative nicotine products presented a driver's or commercial driver's license or an identification card.
 - B. A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid.
 - C. The cigarettes, other tobacco products, or alternative nicotine products were sold, given away or otherwise distributed to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.
- (2) In determining whether a seller or an agent or employee of a seller has proven the affirmative defense provided by subsection (c)(1) of this section, the trier of fact in the action for the alleged violation of subsection (a) of this section shall consider any written policy that the seller has adopted and implemented and that is intended to prevent violations of subsection (a) of this section. For purposes of subsection (c)(1)C. of this section, the trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a seller or an agent or employee of a seller to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a seller or an agent or employee of a seller from exercising reasonable diligence to determine, the following:
 - A. Whether a person to whom the seller or agent or employee of a seller sells, gives away or otherwise distributes cigarettes, other tobacco products, or alternative nicotine products is twenty-one years of age or older;
 - B. Whether the description and picture appearing on the driver's or commercial driver's license or identification card presented by a card holder is that of the card holder.
- (3) In any criminal action in which the affirmative defense provided by subsection (c)(1) of this section is raised, the Registrar of Motor Vehicles or a Deputy Registrar who issued an identification card under Ohio R.C. 4507.50 to 4507.52 shall be permitted to submit certified copies of the records of that issuance in lieu of the testimony of the personnel of or contractors with the Bureau of Motor Vehicles in the action.

(ORC 2927.022)

(d) Shipment of Tobacco Products.

- (1) As used in this subsection (d):
 - A. "Authorized recipient of tobacco products" means a person who is:
 1. Licensed as a cigarette wholesale dealer under Ohio R.C. 5743.15;
 2. Licensed as a retail dealer as long as the person purchases cigarettes with the appropriate tax stamp affixed;
 3. An export warehouse proprietor as defined in Section 5702 of the Internal Revenue Code;
 4. An operator of a customs bonded warehouse under 19 U.S.C. 1311 or 19 U.S.C. 1555;
 5. An officer, employee, or agent of the federal government or of this state acting in the person's official capacity;
 6. A department, agency, instrumentality, or political subdivision of the federal government or of this state;
 7. A person having a consent for consumer shipment issued by the Tax Commissioner under Ohio R.C. 5743.71.
 - B. "Motor carrier." Has the same meaning as in Ohio R.C. 4923.01.
- (2) The purpose of this division (d) is to prevent the sale of cigarettes to minors and to ensure compliance with the Master Settlement Agreement, as defined in Ohio R.C. 1346.01.
- (3) A. No person shall cause to be shipped any cigarettes to any person in this municipality other than an authorized recipient of tobacco products.
- B. No motor carrier or other person shall knowingly transport cigarettes to any person in this municipality that the carrier or other person reasonably believes is not an authorized recipient of tobacco products. If cigarettes are transported to a home or residence, it shall be presumed that the motor carrier or other person knew that the person to whom the cigarettes were delivered was not an authorized recipient of tobacco products.
- (4) No person engaged in the business of selling cigarettes who ships or causes to be shipped cigarettes to any person in this municipality in any container or wrapping other than the original container or wrapping of the cigarettes shall fail to plainly and visibly mark the exterior of the container or wrapping in which the cigarettes are shipped with the words "cigarettes."
- (5) A court shall impose a fine of up to one thousand dollars (\$1,000) for each violation of subsection (d)(3)A., (d)(3)B. or (d)(4) of this section.

(ORC 2927.023)

(e) Furnishing False Information to Obtain Tobacco Products.

- (1) No person who is eighteen years of age or older but younger than twenty-one years of age shall knowingly furnish false information concerning that person's name, age, or other identification for the purpose of obtaining tobacco products.
- (2) Whoever violates subsection (e)(1) of this section is guilty of furnishing false information to obtain tobacco products. Except as otherwise provided in this division, furnishing false information to obtain tobacco products is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (e)(1) of this section or a substantially equivalent state law or municipal ordinance, furnishing false information to obtain tobacco products is a misdemeanor of the third degree.

(ORC 2927.024)

537.17 RESERVED.

(Editor's note: This section was formerly 537.17 Criminal Child Enticement, based on Ohio R.C. 2905.05, Criminal Child Enticement. The

Ohio Supreme Court held that Ohio R.C. 2905.05(A) was unconstitutionally overbroad in violation of the First Amendment. See *State v. Romage*, 138 Ohio St. 3d. 390 (2014).)

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.

541.02 Arson.

541.03 Criminal damaging or endangering.

541.04 Criminal mischief.

541.05 Criminal trespass.

541.051 Aggravated trespass.

541.06 Destruction of shrubs, trees or crops.

541.07 Desecration.

541.08 Possession of property belonging to the Municipality.

541.09 Ethnic intimidation.

541.10 Vehicular vandalism.

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 POSSESSION OF PROPERTY BELONGING TO THE MUNICIPALITY.

(a) No person shall, without being duly authorized, have in his control or possession any equipment, tools, implements or other property belonging to the Municipality.

(ORC 5589.12; Ord. 1-A-1944. Passed 8-14-44.)

(b) Whoever violates this section shall be fined not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00).

541.09 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)

541.10 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)

541.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 545

Theft and Fraud

545.01 Definitions.

545.02 Determining property value in theft offense.

- 545.03 Property exceptions as felony offense.**
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- 545.05 Petty theft.**
- 545.06 Unauthorized use of a vehicle; vehicle trespass.**
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- 545.10 Misuse of credit cards.**
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- 545.15 Securing writings by deception.**
- 545.16 Personating an officer.**
- 545.17 Defrauding creditors.**
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- 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.
- (3) As an officer, employee, or appointee of a political subdivision or as a public servant as defined under Section 525.01, knowingly misuse a credit card account held by a political subdivision.

(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.

549.02 Carrying concealed weapons.

549.03 Using weapons while intoxicated.

549.04 Improperly handling firearms in a motor vehicle.

549.05 Failure to secure dangerous ordnance.

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549.09 Fireworks display permits.

549.10 Discharging firearms.

549.11 Throwing or shooting missiles.

549.12 Possessing replica firearm in school.

549.13 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. "Sawed-off firearm" does not include any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (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, cyclotol 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.
 - (7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (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 license 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".
- (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 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 all-purpose vehicle as defined in Ohio R.C. 1531.01 on private or publicly owned lands or on or in a motor vehicle during the open hunting season for a wild quadruped or game bird.
 - C. The person is on or in an 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.
- (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 do any of the following:

- (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 the transferee 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 FIREWORKS SALE OR DISCHARGE.

(EDITOR'S NOTE: Former Ohio R.C. 3743.27 and 3743.32, from which this section was derived, were repealed by Amended Senate Bill 61, effective May 30, 1986. The new law on the possession, sale and discharge of fireworks generally is now codified as Section 1519.04 of the Fire Prevention Code.)

549.09 FIREWORKS DISPLAY PERMITS.

(EDITOR'S NOTE: Former Ohio R.C. 3743.33 from which this section was derived was repealed by Amended Senate Bill 61, effective May 30, 1986. The new law on fireworks exhibition permits is now codified as Section 1519.02 et seq. of the Fire Prevention Code.)

549.10 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.

549.11 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.

549.12 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)

549.13 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 553

Railroads

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.

553.04 Railroad vandalism.

553.05 Grade crossing device vandalism.

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 do the following:

(1) 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;

(2) When approaching a grade crossing, fail to sound the locomotive whistle at frequent intervals, beginning not less than 1,320 feet from such crossing and continuing until the locomotive has passed the crossing.

(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)

553.04 RAILROAD VANDALISM.

(a) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of, any railroad rail, railroad track, locomotive, engine, railroad car, or other vehicle of a railroad company while such vehicle is on a railroad track.

(b) No person, without privilege to do so, shall climb upon or into any locomotive, engine, railroad car, or other vehicle of a railroad company when it is on a railroad track.

(c) No person, without privilege to do so, shall disrupt, delay, or prevent the operation of any train or other vehicle of a railroad company while such vehicle is on a railroad track.

(d) No person, without privilege to do so, shall knowingly enter or remain on the land or premises of a railroad company.

(e) Whoever violates subsection (a) of this section is guilty of railroad vandalism. Whoever violates subsection (b) of this section is guilty of criminal trespass on a locomotive, engine, railroad car or other railroad vehicle. Whoever violates subsection (c) of this section is guilty of interference with the operation of a train.

Except as otherwise provided in this subsection, railroad vandalism; criminal trespass on a locomotive, engine, railroad car, or other railroad vehicle; and interference with the operation of a train each is a misdemeanor of the first degree. If the violation of subsection (a), (b) or (c) of this section causes serious physical harm to property, creates a substantial risk of physical harm to any person, causes physical harm to any person, or serious physical harm to any person, the violation is a felony and shall be prosecuted under appropriate State law.

(f) Whoever violates subsection (d) of this section is guilty of criminal trespass on the land or premises of a railroad company, a misdemeanor of the fourth degree.

(ORC 2909.10)

553.05 GRADE CROSSING DEVICE VANDALISM.

(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 557

Weeds

557.01 Cutting required.

557.02 Notice to owner; service.

557.03 Fees for service and return.

557.04 Procedure when owner fails to comply with notice.

557.05 Written return to County Auditor; amount a lien upon property.

CROSS REFERENCES

Destruction of weeds - see Ohio R.C. 971.33 et seq.

Noxious weeds - see OAC Ch. 901:5-31

Injury or destruction - see GEN. OFF. 541.06

557.01 CUTTING REQUIRED.

(a) No person owning or having charge of land within the Village shall fail to keep such property free and clear from all noxious weeds and

rank vegetation or allow grass, weeds and vegetation to grow in excess of six inches on lots owned or controlled by that person excluding any vegetation to be deemed ornamental or agricultural in nature.

(b) No person owning or having charge of land within the Village shall allow any tree, shrub or bush or any other vegetation to interfere with the safe line of sight of any roadway or intersection located in the Village.

(c) No person shall throw, place or deposit, or permit to be thrown, placed or deposited, or permit to remain, in any manner whatsoever, any grass, grass clippings, leaves, brush or other organic materials on public land easement, lot, sidewalk, street or street right of way, unless it is placed in an appropriate container, and is scheduled to be picked up within twenty-four hours by a hauler licensed to operate within the Village limits.

(d) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor.
(Ord. 2019-26. Passed 5-13-19.)

557.02 NOTICE TO OWNER; SERVICE.

Upon information that grass of an excessive height or noxious weeds are growing on lands in the Municipality and are about to spread or mature seeds, Council shall cause written notice to be served on the owner or person having charge of such land that such grass of an excessive height or weeds must be cut and destroyed within five days after service of such notice. If such owner or person having charge of such land is a nonresident whose address is known, such notice shall be sent to his address by registered or certified mail; if unknown, it shall be sufficient to publish such notice once in a newspaper of general circulation in the County. (ORC 731.51; Ord. 1-A- 1944. Passed 8-14-44; Ord. 2001-21. Passed 6-11-01.)

557.03 FEES FOR SERVICE AND RETURN.

The Chief of Police, any police officer or the Clerk of Council may make service and return of the notice provided for in Section 557.02 and shall be allowed the same fee as that provided for service and return of summons in civil cases.
(ORC 731.52; Ord. 1-A-1944. Passed 8-14-44.)

557.04 PROCEDURE WHEN OWNER FAILS TO COMPLY WITH NOTICE.

If the owner or person having charge of such land fails to comply with such notice, Council shall cause the grass of an excessive height or noxious weeds to be cut and destroyed. All expenses and labor costs incurred shall, when approved by Council, be paid out of the Municipal funds not otherwise appropriated.

(ORC 731.53; Ord. 1-A-1944. Passed 8-14-44; Ord. 2001-21. Passed 6-11-02.)

557.05 WRITTEN RETURN TO COUNTY AUDITOR; AMOUNT A LIEN UPON PROPERTY.

Council shall make a written return to the County Auditor of its action under Sections 557.02 to 557.04 and with a statement of the charges for its services, the amount paid for labor, the fees of the officers serving the notices and a proper description of the premises. Such amounts, when allowed, shall be entered upon the tax duplicate and be a lien upon such lands from and after the date of the entry and be collected as other taxes and returned to the Municipality with the General Fund. This remedy shall be in addition to the penalty provided in Section 557.01(b).
(ORC 731.54; Ord. 1-A-1944. Passed 8-14-44.)

CODIFIED ORDINANCES OF CARROLLTON

PART SEVEN - BUSINESS REGULATION CODE

Chap. 711. Musical Instruments.

Chap. 721. Soliciting.

Chap. 731. Taxicabs.

Chap. 741. Garage Sales.

Chap. 751. Video Service Providers.

Chap. 761. Adult Cabarets.

CHAPTER 711

Musical Instruments

711.01 Use restrictions.

CROSS REFERENCES

Musical instruments exempted from execution of judgment against owner - see Ohio

R.C. 2329.66

Disorderly conduct - see GEN. OFF. 509.03

711.01 USE RESTRICTIONS.

No person shall operate or cause or permit to be operated any musical instrument, radio, phonograph, television set or any other instrument or device capable of producing noise, in such a manner or with such volume as to create unnecessary, excessive or offensive noise which annoys or disturbs the peace, quiet, comfort or repose of the neighboring inhabitants, particularly between the hours of 9:00 p.m. and 7:00 a.m.

CHAPTER 721

Soliciting

721.01 Definitions; exception.

721.02 Sales on public property prohibited.

721.03 Prohibited conduct.

721.04 Sale on private property.

721.05 Temporary business/solicitor's permit; fee and duration.

721.06 Permit revocation.

721.07 Exceptions; exemptions.

721.08 Appeal procedure.

721.09 Display of permit.

721.10 Location of temporary place of business.

721.99 Penalty.

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.61

Home Solicitation sales - see Ohio R.C. 1345.12 et seq.

Charitable solicitations - see Ohio R.C. 2923.22

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

721.01 DEFINITIONS; EXCEPTION.

(a) "Solicitor", "canvasser", "peddler" or "hawker" means any person who sells or offers for sale within the Village any goods or chattels of any kind, nature or description by going from house to house or from place to place through the streets of the Village with such goods or chattels on his person or in his possession or under his control or who sells by subscription or by taking orders for future delivery of goods or chattels of any kind, nature or description. This definition shall not apply to or include minors under the age of eighteen years.

(b) "Transient vendor" or "itinerant merchant", means any person who, in the usual course of his business, transports inventory, stock of goods or similar tangible personal property to a temporary place of business within the Village in which he has no fixed place of business, for the purpose of making retail sales of such property.

(c) "Temporary place of business" mean any public or quasi-public place including, but not limited to, any storeroom, building or part of a building, parking lot or vacant lot that is temporarily being occupied for the purpose of making retail sales of goods to the public. A place of business is not temporary if the same persons or firm conducted business at the place continuously for more than six months or occupied the premises as their permanent residence for more than six months. (Ord. 2002-17. Passed 11-12-02.)

721.02 SALES ON PUBLIC PROPERTY PROHIBITED.

No person shall on any public street, alley, drive, lane, thoroughfare, highway, municipal park, street right of way, sidewalks or any other public property, solicit the sale of any merchandise, wares, goods, foods, periodicals or other articles of value for present or future delivery. (Ord. 2002-17. Passed 11-12-02.)

721.03 PROHIBITED CONDUCT.

The following conduct shall be prohibited:

(a) No merchandise shall be displayed or sold within ten feet of a:

- (1) Crosswalk.
- (2) Fire Hydrant.
- (3) Curbcut.
- (4) Doorway or entranceway.

(b) No merchandise shall be displayed on any utility pole, planter, tree, trash, container, public bench or other sidewalk fixture.

(c) No merchandise shall be displayed or sold in any manner that blocks, obstructs, or restricts the free passage of pedestrians in the lawful use of sidewalks.

(d) No solicitor, canvasser, peddler, hawker, transient vendor or itinerant merchant shall operate within the boundaries of a designated special event without the express permission of the sponsor of the special event. Itinerant retailers operating in special events are exempt from the permit requirement during the event. Designated special events shall include only those events for which approval of the Council has been obtained for the use of public property for the special event. The Chief of Police shall be notified of each special event approved.

(e) No transient vendor or itinerant merchant shall operate on any private property without the express written permission of the landowner or tenant in possession.

(Ord. 2002-17. Passed 11-12-02.)

721.04 SALE ON PRIVATE PROPERTY.

(a) The practice of going in or upon private property in the Village by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise, goods, wares, foods, books, periodicals or other articles of value, not having been invited to do so by the owner or occupant of such private property or residence, for the purpose of soliciting orders for the sale of or repair of goods, wares, merchandise or other chattels of value for present or future delivery and/or disposing of and/or peddling or hawking of the same, is declared to be a nuisance, and any such person shall be subject to the penalty provided in Section 721.99.

(b) Every solicitor, peddler, hawker, itinerant merchant or transient vendor, prior to conducting business, within a temporary place of business, upon private property at the invitation of the owner or occupant of such private property, shall first comply with all the provisions of this chapter regulating such business activity.

(Ord. 2002-17. Passed 11-12-02.)

721.05 TEMPORARY BUSINESS/SOLICITOR'S PERMIT; FEE AND DURATION.

(a) Each person, whether principal or agent, who proposes to conduct or engage in the sale of goods, wares, merchandise, property, tangible, of any nature whatsoever, and services, from a temporary place of business, within the Village, shall, before opening the same and before offering sale of such goods, wares, merchandise, property and/or services procure a permit to do so from the Village Administrator, which application shall be made not less than ten days prior to the time such activity is to take place.

(b) The applicant for a temporary business/solicitor's permit shall furnish the Village Administrator with the following information on forms provided by the Village:

- (1) Full name of the applicant.
- (2) Date of birth of the applicant.
- (3) Local address, if any.
- (4) Permanent home address.
- (5) A physical description of the applicant, setting forth age, height, weight, color of hair and eyes, and sex.
- (6) Social security number or Federal Tax ID number, if any.
- (7) A description of the nature of the business and the location and the goods, wares, merchandise, property and/or services to be sold.
Written consent of the owner of the premises or other duly authorized person shall be provided.
- (8) Telephone number of the applicant.
- (9) Number of employees.

- (10) Date and hours of operation.
 - (11) Whether the applicant has ever been convicted of a crime and, if so, where and the nature of the offense and the punishment or penalty imposed therefor.
 - (12) Such other information as the Village Administrator may require.
 - (c) A nonrefundable fee of twenty-five dollars (\$25.00) for Carroll County residents or a nonrefundable fee of one hundred fifty dollars (\$150.00) for non Carroll County residents shall be submitted with the application.
 - (d) The permit shall be valid for a period not to exceed three days from the date of issuance unless earlier revoked. No permit issued hereunder shall be assigned or transferred to another person.
 - (e) The Village Administrator shall issue a permit to the applicant unless he has determined:
 - (1) That the applicant has made a false, misleading or deceptive statement in providing the information required under subsection (b); or
 - (2) That the applicant has been convicted of a felony or of a misdemeanor involving moral turpitude during the five year preceding the date of application; or
 - (3) That the proposed location of the temporary business would constitute a hazard to the public health, safety and welfare.
- (Ord. 2002-17. Passed 11-12-02.)

721.06 PERMIT REVOCATION.

- (a) A permit issued under this chapter shall be revoked by the Village Administrator for any of the following causes:
 - (1) It is subsequently determined that the permittee provided false, misleading or deceptive information in completing the application form set forth in Section 721.04
 - (2) The permittee is convicted of a felony or of a misdemeanor involving moral turpitude.
 - (3) The permittee is convicted of a violation of any provision of this chapter.
 - (b) Written notice of such revocation shall be given to the permittee by personal service of the Village Police Department immediately upon such revocation.
- (Ord. 2002-17. Passed 11-12-02.)

721.07 EXCEPTIONS; EXEMPTIONS.

- (a) The provisions of Sections 721.03 through 721.05 shall not apply to Village merchants or residents who offer Christmas trees for sale at their place of business or place of residence. Said exemption shall be applicable only between the Wednesday immediately preceding the Thanksgiving Day holiday and the following New Year's Day.
- (b) The provisions of this chapter shall not apply to persons holding sales governed by Chapter 741, entitled Garage Sales.
- (c) The provisions of this chapter shall not apply to any activity, event or function conducted by or on behalf of any recognized nonprofit, educational, philanthropic, civic, religious, political or charitable organization or group, provided that the aforementioned organization or group or person on its behalf registers with the Village Administrator stating the name of the organization or group, the nature of the activity, event or function being conducted, the duration and location of such activity, event or function and furnishes any other information deemed necessary by the Village Administrator, including evidence satisfactory to the Village Administrator that the organization or group is a recognized nonprofit, educational, philanthropic, civic, religious, political or charitable organization or group and that the person registering the organization or group is, in fact authorized to act on its behalf. Written consent of the owner of the premises or other duly authorized person shall be provided. The registration shall be valid for a period not to exceed thirty days but may be renewed. The proposed location of the activity, event or function shall not constitute a hazard to the public health, safety and welfare and shall be approved by the Village Administrator.
- (d) Persons offering or exposing for sale agricultural articles or products other than pursuant to subsection (b) hereof or persons selling by sample only shall be exempt from the payment of permit fee, but shall in all other respects comply with the provisions of this chapter. As used herein, agricultural articles or products means commodities used as food or nonalcoholic drink for human consumption. (Ord. 2002-17. Passed 11-12-02.)

721.08 APPEAL PROCEDURE.

If an application for a permit is not approved or if any permit issued pursuant to the provisions of this chapter is revoked, written notice shall be given to the applicant or permittee by personal service by the Village Police Department or Village Administrator. The applicant or permittee shall have the right to appeal such disapproval or revocation to the Board of Zoning Appeals. The Board shall have the power to affirm, modify or reverse the decision of Village Administrator. Any such decision made by the Board shall be final.

(Ord. 2002-17. Passed 11-12-02.)

721.09 DISPLAY OF PERMIT.

Any person conducting a temporary business within this Village who has obtained a permit in accordance with the provision of this chapter, shall upon demand, exhibit such permit to any police officer, other Village official or resident.

(Ord. 2002-17. Passed 11-12-02.)

721.10 LOCATION OF TEMPORARY PLACE OF BUSINESS.

No temporary place of business shall be located so as to interfere with any of the lot set aside for required parking or other accessory use upon the lot. In addition, no temporary place of business shall be located within a required setback area of a lot. Further, no temporary place of business shall store or display merchandise more than twenty-five feet from the primary structure on the lot where such temporary business is to be located.

(Ord. 2002-17. Passed 11-12-02.)

721.99 PENALTY.

Whosoever violates any provision of this chapter shall be guilty of a first degree misdemeanor, subject to a fine of not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each day's continued violation of any provision of this chapter shall constitute a separate offense for purposes of this penalty provision.

(Ord. 2002-17. Passed 11-12-02.)

CHAPTER 731

Taxicabs

- 731.01 Taxicab defined.**
- 731.02 Operator's license required; effective period; fee.**
- 731.03 Application for operator's license.**
- 731.04 Issuance of operator's license.**
- 731.05 Displaying rates; excessive charges.**

- 731.06 Driver's license required.**
731.07 Taxicabs licensed by other municipalities.
731.99 Penalty.

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; TRAF. 305.01

731.01 TAXICAB DEFINED.

As used in this chapter, "taxicab" means any vehicle whose owner or driver solicits, secures or accepts passengers for hire upon hail or request on the public streets in the Village.

731.02 OPERATOR'S LICENSE REQUIRED; EFFECTIVE PERIOD; FEE.

No person shall operate or cause to be operated a taxicab or proffer the services of any vehicle as a taxicab unless the owner of such vehicle has obtained a taxicab license as herein provided covering such vehicle.

Every such taxicab license shall expire on December 31 for the year in which it is issued. Licenses issued on or after July 1 of any year shall be issued at one-half the annual fee herein provided.

The annual license fee for each taxicab shall be twenty-five dollars (\$25.00) for the first cab owned by any person applying therefor, ten dollars (\$10.00) for the second cab, ten dollars (\$10.00) for the third cab and five dollars (\$5.00) for all additional cabs owned by any person applying therefor. Such license fee shall be paid at the time of the application for a license and in the event a license is denied, fifty percent of the license fee paid shall be refunded to the applicant.

731.03 APPLICATION FOR OPERATOR'S LICENSE.

Each applicant for a taxicab license shall present and file with the Mayor his signed application setting forth the trade names under which he intends to do business, the number of vehicles and a general description of each vehicle for which a license is desired, the marking or lettering to be used thereon and any other information required pursuant to the issuance of such license.

731.04 ISSUANCE OF OPERATOR'S LICENSE.

(a) The Mayor shall investigate each application to determine whether the public convenience and necessity justify the operation of the vehicle for which a license is desired, and shall notify the applicant of his finding. If he finds, from such investigation, that the public convenience and necessity do justify the operation of the vehicle for which a license is desired, he shall forthwith notify the applicant. The Mayor, if he so desires, may conduct such public hearings as he deems advisable to determine the matter of convenience and necessity. Within sixty days thereafter the applicant shall furnish and file with the Mayor the following:

- (1) A full transcript of the information appearing on the certificate of title of each vehicle for which a license is desired, and the state license number of each such vehicle;
- (2) A schedule of fares and rates to be charged passengers for transportation during the period of the license;
- (3) The name of each person who will operate such taxicab, with the driver's license number of each such person;
- (4) A certificate of insurance issued in favor of the Village and a policy of liability insurance issued for the life of the license applied for or longer, by a responsible insurance company, approved as to sufficiency by the Mayor, and as to legality by the Solicitor. Such insurance shall provide indemnity for or protection to the applicant against loss resulting from the operation of each such taxicab to the extent of one hundred thousand dollars (\$100,000) on account of injury or death of one person in anyone accident; three hundred thousand dollars (\$300,000) on account of injury or death of more than one person in any one accident; and twenty-five thousand dollars (\$25,000) for property damage caused in any one accident.

(b) Thereupon, the Mayor shall examine such supporting information and documents, and being satisfied that the applicant is the owner of any such vehicle, that the same is a safe and fit conveyance and that satisfactory insurance or bond has been issued and is in force thereon, he shall, upon payment of the prescribed license fee, issue a license to the applicant.

(c) A certified copy of such license shall be exhibited in a prominent place in each taxicab at all times.

731.05 DISPLAYING RATES; EXCESSIVE CHARGES.

Every taxicab shall display at all times a printed list of the fares and rates to be charged passengers for transportation which shall not be in excess of the schedule of rates furnished the Village in connection with the application for the license hereunder except when an increase in rates is approved by Council.

731.06 DRIVER'S LICENSE REQUIRED.

(a) No person shall drive a taxicab unless he secures a license therefor as herein provided.

(b) No such license shall be issued to any person who is not competent to operate a motor vehicle or who is not familiar with the traffic laws and ordinances. The Chief of Police shall examine each applicant for a taxicab driver's license to determine the competency of the applicant, and no such license shall be issued except on certificate of the Chief that the applicant has demonstrated his ability to operate a motor vehicle as required herein.

(c) Each driver shall be of good moral character and repute in the community.

(d) The Mayor may revoke any taxicab driver's license for repeated violations of traffic laws or ordinances, or of any ordinance provision regulating the conduct of such drivers.

731.07 TAXICABS LICENSED BY OTHER MUNICIPALITIES.

Taxicabs licensed and inspected by other municipalities may operate in the Village under the provisions of this chapter.

731.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be fined not more than one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

CHAPTER 741

Garage Sales

- 741.01 Definitions.**
741.02 Property permitted to be sold.
741.03 Conditions.

- 741.04 Display of sale property.**
- 741.05 Signs.**
- 741.06 Nuisances.**
- 741.07 Parking.**
- 741.08 Exceptions.**
- 741.09 Charitable organizations.**
- 741.10 Separability.**
- 741.99 Penalty.**

CROSS REFERENCES

Secondhand dealers - see Ohio R.C. 715.61
 Power to regulate signs - see Ohio R.C. 715.65
 Littering - see GEN. OFF. 521.08

741.01 DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular; and words in the singular the plural. The word "shall" should be interpreted as being mandatory.

- (a) "Garage sale" or "other residential sale" means and includes all general sales, open to the public, conducted from premises in the Village for the purpose of disposing of personal property, including, but not limited to, all sales commonly referred to as "garage", "lawn", "yards", "attic", "porch", "room", "backyard", "patio", "flea market" or "rummage sale". This definition shall not apply to a situation in which five or less specific items are held out for sale and all advertisement of such sales specifically names those items to be sold.
- (b) "Personal property" means property which is owned, utilized and maintained by an individual or members of his or her residence and which has been acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

(Ord. 2015-41. Passed 10-12-15.)

741.02 PROPERTY PERMITTED TO BE SOLD.

No individual shall sell or offer for sale, under authority granted by this chapter, property other than personal property.

(Ord. 2015-41. Passed 10-12-15.)

741.03 CONDITIONS.

- (a) No garage or other residential sale shall be permitted except between the hours of 8:00 a.m. and 6:00 p.m.
- (b) No garage or other residential sale shall be permitted for more than three consecutive days.
- (c) No garage or other residential sale shall be permitted more than one time per calendar month. (Ord. 2015-41. Passed 10-12-15.)

741.04 DISPLAY OF SALE PROPERTY.

No personal property offered for sale at a garage or other residential sale shall be displayed in any public right of way. All personal property must be removed at the conclusion of the sale.

(Ord. 2015-41. Passed 10-12-15.)

741.05 SIGNS.

- (a) Temporary signs advertising a garage or residential sale may be posted. The temporary signs shall be located as follows:

- (1) Directional signs posted in the public right of way at the corner of the street where the sale is to be conducted.
- (2) One sign to be located on the lot where the sale is to be conducted.
- (3) All signs must be removed at the conclusion of the sale.

(b) No person shall post any sign, placard, handbill, circular or similar device upon any utility pole, street sign, tree or other permanent structure or monument located within the public right of way of the Village.

(Ord. 2015-41. Passed 10-12-15.)

741.06 NUISANCES.

The owner and/or tenant of the premises on which the sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such individual shall permit any loud or boisterous conduct on the premises nor permit vehicles to impede the passage of traffic on any roads or streets in the area of the premises. All such individuals shall obey the reasonable orders of any member of the Police Department, or Fire Department in order to maintain the public health, safety and welfare. (Ord. 2015-41. Passed 10-12-15.)

741.07 PARKING.

All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances. Further, the police may enforce temporary controls to alleviate any special hazards or congestion created by the garage or other residential sale.

(Ord. 2015-41. Passed 10-12-15.)

741.08 EXCEPTIONS.

The provisions of this chapter shall not apply to or affect the following:

- (a) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
- (b) Persons acting in accordance with their powers and duties as public officials.
- (c) Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business wherein such sale would be permitted by the Zoning Ordinance of the Village where such sale is being conducted under the protection of a nonconforming use section of the Zoning Ordinance. (Ord. 2015-41. Passed 10-12-15.)

741.09 CHARITABLE ORGANIZATIONS.

Any bonafide charitable, educational, cultural or governmental institution or organization conducting a sale in which the proceeds are used directly for the institution or for the organization's charitable purposes and in which the goods or articles are contributed by the members of the organization and where no goods are sold on a consignment basis shall be exempt from the compliance with this chapter. To the degree that the goods sold conform to the restrictions of this section, the restrictions of Section 741.01(b) shall not apply. Furthermore, a sale qualifying under this section, may be conducted at a residence even though it would otherwise be prohibited by Section 741.03 hereof.

(Ord. 2015-41. Passed 10-12-15.)

741.10 SEPARABILITY.

If any provision of this chapter is found to be invalid or unconstitutional, or if the application of this chapter to any person or circumstances is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this chapter which can be given effect without the valid or unconstitutional provisions of application.

(Ord. 2015-41. Passed 10-12-15.)

741.99 PENALTY.

Whoever violates any of the provision of this chapter is guilty of a minor misdemeanor. Each day on which a violation occurs or continues shall constitute a separate offense.

(Ord. 2015-41. Passed 10-12-15.)

CHAPTER 751

Video Service Providers

751.01 Fee.

751.01 FEE.

(a) Council hereby establishes a VSP Fee that is calculated by applying a VSP Fee Percentage of five percent (5%) to the video service provider's gross revenues as defined in Section 1332.32(B) of the Video Law. All video service providers and cable television operators providing video service in the Village shall apply the VSP Fee Percentage against gross revenues as defined in the Video Law.

(b) The VSP Fee shall be paid by each video service provider providing service in the Village on a quarterly basis but not sooner than forty-five (45) days nor later than sixty (60) days after the each of each calendar quarter.

(c) The Village Administrator is authorized and directed to provide any video service provider with notice of the VSP Fee Percentage as determined by this Council above, which notice shall be given by certified mail, upon receipt of notice from such video service provider that it will begin providing video service in the Village pursuant to a state-issued video service authorization.

(Ord. 2009-11. Passed 3-9-09.)

CHAPTER 761

Adult Cabarets

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CROSS REFERENCES

Authority of municipalities to regulate taverns – see Ohio R.C. 715.53

Disorderly conduct – see GEN. OFF. Ch. 509

Public intoxication – see GEN. OFF. 509.03

Health, safety and sanitation – see GEN. OFF. Ch. 521

Liquor control – see GEN. OFF. Ch. 529

Obscenity and sex offenses – see GEN. OFF. Ch. 533

761.01 PURPOSE AND INTENT.

It is the purpose and intent of this chapter to regulate adult cabarets to promote the health, safety, morals and general welfare of the citizens of the Village and to establish reasonable and uniform regulations in order to prevent any deleterious location and concentration of adult cabarets within the Village, thereby reducing and eliminating any adverse secondary effects from such businesses. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or a restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is neither the intent nor the effect of this chapter to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent or the effect of this chapter to condone or legitimize the distribution of obscene materials.

(Ord. 2012-7. Passed 3-26-12.)

761.02 DEFINITIONS.

As used in this chapter:

- (a) "Adult cabaret" means a nightclub, bar, restaurant, supper club, lounge or similar establishment in which persons appear in a state of nudity in the performance of their duties, and/or the nature of the performance could promote sexual arousal in the performer or the observer.
- (b) "Carry-out" means any establishment selling alcoholic beverages for off-premises consumption.
- (c) "Church" means any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious

activities.

(d) "Nudity" means the showing of either of the following:

- (1) The human male or female genitals, pubic area or buttocks, with less than a fully opaque covering; or
- (2) The female breast with less than a fully opaque covering on part of the nipple.

(e) "Permit" means a permit to operate an adult cabaret establishment, issued pursuant to these regulations.

(f) "Public park" means public land which has been designated for park or recreational activities, including, but not limited to, a park, a playground, nature trails, a swimming pool, a reservoir, an athletic field, basketball or tennis courts, pedestrian bicycle paths, open spaces, wilderness areas, or similar public land within the Village, and which is under the control, operation or management of the Village, the County or the State.

(g) "Residential district" means those areas zoned as residential districts in the Zoning Code.

(h) "Residential use" means a dwelling, as defined in the Zoning Code.

(i) "School" means any public or private educational facility, including, but not limited to, child day-care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities. "School" includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.

(j) "Sexually oriented business" means any establishment selling, renting or otherwise distributing communicative materials, including sexually oriented materials protected by the First Amendment, or sexually oriented entertainment or sexually oriented paraphernalia.

(k) "Tavern or bar" means any establishment that sells alcoholic beverages for on-premises or off-premises consumption.

(Ord. 2012-7. Passed 3-26-12.)

761.03 SCOPE.

These regulations shall govern adult cabaret establishments within the Village as well as the owners, operators, persons in charge and employees of such establishments.

(Ord. 2012-7. Passed 3-26-12.)

761.04 PERMIT REQUIRED.

(a) No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, in the Village, the operation of an adult cabaret without first having obtained a permit from the Village.

(b) A separate permit shall be required for each location at which an adult cabaret is operated. (Ord. 2012-7. Passed 3-26-12.)

761.05 PERMIT APPLICATION; FEE.

(a) An application for an original or renewal permit shall be made on a form prescribed by the Village and shall be filed with the Village Administrator.

(b) An application for a renewal permit shall be filed not later than thirty days prior to expiration of the permit to be renewed.

(c) A non refundable filing fee shall be paid at the time of filing the application as follows:

(1) Two hundred dollars (\$200.00) for an initial permit to operate an adult cabaret and, in addition thereto, ten dollars (\$10.00) for each background check of the applicant and his or her employees, conducted by the Police Division.

(2) One hundred dollars (\$100.00) for renewal permit to operate an adult cabaret.

(d) An application for an initial permit to operate an adult cabaret shall contain the following:

(1) The address where the adult cabaret is operated or is to be operated;

(2) The status of the applicant as an individual, partnership, limited partnership, domestic or foreign corporation or other entity;

(3) The full name, residence address, date of birth and social security number of the applicant or of any employee applying on behalf of the adult cabaret;

(4) The full name, residence address, date of birth and social security number of the applicant or the person applying on behalf of a partnership, corporation or other entity;

(5) If the applicant is a partnership or limited partnership, the name of the partnership; the status of the partnership as a general or limited partnership; the state of other jurisdiction under which it is organized; the address of its principal office in Ohio; its federal identification number; the name and address, date of birth and social security number of each partner; and the status of each partner as a general or limited partner;

(6) If the applicant is a corporation, the name of the corporation; the state or other jurisdiction under which it is organized; the address of its principal office; the address of its principal office in Ohio; its federal identification number; the name and address of its statutory agent in Ohio; and the full name, residence address, date of birth and social security number of each shareholder holding more than two percent of the applicant's stock. If any shareholder is a corporation or a general or limited partnership, the same information shall be included for such shareholder as is required for an applicant that is a corporation or a general or limited partnership;

(7) Authorization for an investigation into the background, including any criminal record, of the applicant and of any person named in the application, including authorization to conduct subsequent investigations to supplement or update the information; and

(8) The applicant's agreement to abide by these regulations and the laws of Ohio, and any amendments, additions or re-enactments thereof

(e) Applicants for permits under this chapter shall have a continuing duty to promptly supplement application information required by this section in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty days from the date of such change, by supplementing the application on file with the Village, shall be grounds for suspension of a permit.

(Ord. 2012-7. Passed 3-26-12.)

761.06 INSPECTION AND INVESTIGATION INCIDENT TO PERMIT APPLICATION.

(a) Upon receipt of an application for a permit or renewal permit to operate an adult cabaret, the Village Administrator shall notify State and local authorities to conduct building, health and safety inspections of the specified premises and to determine compliance or noncompliance with applicable building, health and safety codes. Written reports of inspection shall be prepared by the inspectors and filed with the Village Administrator within thirty days after receipt of an application for a permit or renewal permit to operate an adult cabaret and shall become part of the application for a permit.

(b) Upon receipt of an application for a permit or renewal permit to operate an adult cabaret, the Village Administrator shall refer the applicant to the Police Division to be fingerprinted and to conduct an investigation into the background of the applicant and of other persons or entities named in the application. A written report of the results of the investigation shall be prepared by the investigating officer or agency and

filed with the Village Administrator within thirty days after receipt of an application for a permit or renewal permit to operate an adult cabaret and shall become a part of the application for a permit.

(Ord. 2012-7. Passed 3-26-12.)

761.07 ACTION ON APPLICATION.

(a) The Village Administrator shall act on the application within thirty days after the filing of the reports required by Section 761.05 and 761.06.

(b) The application will be denied if any of the following is true:

- (1) The application is incomplete, contains any false information or fails to comply with these regulations;
- (2) The applicant, being a limited partnership, corporation or other legal association, is not in good standing in the jurisdiction where organized.
- (3) The operation of an adult cabaret establishment at the specified premises will violate existing zoning regulations;
- (4) The report of the building, health and safety inspections conducted pursuant to Section 761.06 reveals an illegal, unsanitary, unsafe or hazardous condition on the premises subject to the permit or renewal permit or any violation of applicable health or safety codes;
- (5) The applicant for a permit or renewal permit to operate an adult cabaret establishment has failed to cooperate with required building, health or safety inspection or background investigation;
- (6) The application or any person named in the application for a permit or renewal permit to operate an adult cabaret is under age eighteen;
- (7) The applicant or any person named in the application for an initial or renewal permit to operate an adult cabaret has within the previous five years, been convicted of or pleaded guilty to an offense under Ohio R.C. Chapter 2907 or a substantially equivalent offense under a municipal ordinance in Ohio, or under the laws of another state or territory or of the United States, or under a municipal ordinance in any such jurisdiction;
- (8) Any person employed at the licensed adult cabaret has been convicted of or pleaded guilty to a violation of Section 761.19;
- (9) The Ohio Liquor Control Commission has revoked, under Ohio R.C. 4301.25, a permit held by any one of the persons named in the application;
- (10) The applicant has violated any provision of this chapter or aided and abetted a violation of any of the provisions of this chapter.
- (11) The location of the adult cabaret is within 1,000 feet from the boundaries of a parcel of real estate having situated on it a school, church, library, public park, tavern, bar, carry-out, a sexually-oriented business or other adult cabaret;
- (12) The location of the adult cabaret is within 1,000 feet from the boundaries of any residential district;
- (13) The building structure or portion thereof already contains another adult cabaret, a sexually-oriented business, a bar, a tavern or a carry-out.

(c) If the application is denied, the Village Administrator shall promptly notify the applicant, in writing, of the order denying the application. If approved, the Village Administrator shall promptly issue to the applicant a permit.

(d) A permit or renewal permit to operate an adult cabaret shall contain the name and address of the permit premises, the name and address of the permit holder, the date of issuance of the permit, and the date of expiration of the permit.

(Ord. 2012-7. Passed 3-26-12.)

761.08 EXPIRATION OF PERMIT.

(a) A permit to operate an adult cabaret is valid for one year and shall expire on the anniversary of the date of issuance, unless sooner revoked as provided in this chapter.

(b) Application for renewal shall be made at least thirty days before the expiration date, and when made less than thirty days before the expiration date, the expiration of the permit will not be affected. (Ord. 2012-7. Passed 3-26-12.)

761.09 DISPLAY OF PERMIT.

The permit to operate an adult cabaret shall be prominently displayed in an area of the establishment open to the public.

(Ord. 2012-7. Passed 3-26-12.)

761.10 REVOCATION OF PERMIT.

(a) The Village may at any time revoke a permit issued pursuant to this chapter, on any of the same grounds listed in Section 761.07(b) for denial of the permit. The Village Administrator shall promptly notify the permittee in writing of the order of revocation.

(b) When a permit is revoked, the revocation shall continue for one year.

(Ord. 2012-7. Passed 3-26-12.)

761.11 INSPECTIONS AND INVESTIGATIONS AFTER PERMIT ISSUED.

(a) The Village may order a building, health and safety inspection at any time there is reasonable cause to believe that an unsanitary, unsafe or hazardous condition exists on the premises. The Village Administrator shall notify the appropriate authorities or agencies to make such inspections at the designated times. Written reports of inspections shall be filed with the Village Administrator.

(b) Village personnel or agents may at all reasonable times inspect permit premises to insure continued compliance with the laws of Ohio and this chapter.

(c) At any time there is reasonable cause to do so, the Village may order a background investigation, including the criminal record, if any, of the permittee, person named in the application for a permit or employee of the permittee. A written report of the investigation shall be filed with the Village Administrator.

(Ord. 2012-7. Passed 3-26-12.)

761.12 REQUIREMENTS FOR OPERATION.

(a) All adult cabarets shall be closed all day Sunday and shall not be operated between the hours of 1:00 a.m. and 9:00 a.m., Monday through Saturday.

(b) All parts of an adult cabaret shall, at all times, be maintained in a neat, clean, sanitary and safe condition.

(c) The owner, operator or person in charge of the adult cabaret shall allow state or local authorities, including law enforcement officers, access to any and all parts of the premises for the purpose of making a building, health or safety inspection pursuant to this chapter and shall cooperate in any background investigation.

(d) No person under age eighteen shall be employed by an adult cabaret in any capacity, whether full-time or part-time, and whether with or without adult cabaret remuneration or compensation in any form.

(e) The owner, operator or person in charge of the adult cabaret shall exercise adequate supervision to insure that the employees of the adult cabaret comply at all times with this chapter and the laws of Ohio.

(f) Buildings and structures shall not be painted or surfaced with garish colors or textures or with any design that would simulate a sign or

advertising message.

(g) Advertisements, signs or any other exhibits that depict adult entertainment activities and that are placed within the interior of a building or premises shall be arranged or screened to prevent public viewing thereof from outside such buildings or premises.

(h) No outdoor loudspeaker or other outdoor sound equipment advertising or directing attention to an adult entertainment use is allowed.

(i) Upon order of the Building Inspector, graffiti appearing on any exterior surface of a building or premises, when such graffiti is within public view, shall be removed and the surface shall be restored within seventy-two hours of notification to the owner or person in charge of the premises.

(j) No person shall operate or cause to be operated an adult cabaret, and knowingly or with reasonable cause to know, permit, suffer or allow:

(1) Admittance of a person under eighteen years of age to the business premises unless such person is accompanied by a parent or guardian.

(2) A person under eighteen years of age to remain at the business premises unless such person is accompanied by a parent or guardian; or

(3) A person under eighteen years of age to purchase goods or services at the business premises without the specific consent of a person or guardian of such person.

(k) If the interior of the premises is visible from outside the premises, so that any matter that is harmful to minors is visible from outside the premises, the owner or manager of the premises shall install opaque covering over all windows through which minors could view any harmful matter and install a privacy curtain at all entrances of the premises through which minors could view any harmful matter.

(Ord. 2012-7. Passed 3-26-12.)

761.13 RULES GOVERNING CONDUCT OF EMPLOYEES.

(a) A person under age eighteen shall not accept or continue employment by an adult cabaret, in any capacity, whether full-time or part-time, and whether with or without remuneration or compensation in any form.

(b) No employee of an adult cabaret, in the performance of his or her duties, shall do any of the following:

(1) Place his or her hand upon, touch with any part of his or her body, fondle in any manner, or massage the genitals, pubic area or buttocks of any other person or the breast of any female, or, if the employee is a female, of any other female, for the purpose of sexual stimulation.

(2) Perform or offer or agree to perform any act that would require the touching of the genitals, pubic area or buttocks of any other person or the breasts of any female or, if the employee is a female, of any other female, for the purpose of sexual stimulation.

(3) Uncover the genitals, pubic area or buttocks of any other person or the breast of any female or, if the employee is a female, of any other female. (Ord. 2012-7. Passed 3-26-12.)

761.14 DISTANCES BETWEEN CABARETS AND OTHER USES.

The required minimum distance between any two adult cabarets, or between an adult cabaret or a bar, tavern, carry-out or a sexually oriented business, shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each such business. The distance between any adult cabaret and any school, public park, church, library, residential district or residential use shall be measured in a straight line, without regard to intervening structures from the closest exterior structural wall of the adult cabaret business to the closest property line of a school, public park, church, library, residential district or residential use. (Ord. 2012-7. Passed 3-26-12.)

761.15 RECORDS.

The Village Administrator shall keep a complete record of all documents and proceedings under this chapter, including, without limitation, applications, reports, copies of permits issued, notices, correspondences, appeal proceedings, resolutions and orders, and petitions. All documents shall be endorsed by the Village Administrator with the date of filing. (Ord. 2012-7. Passed 3-26-12.)

761.16 DEPOSIT OF PERMIT FEES.

Fees collected by the Village for permits under this chapter shall be deposited into the Village General Fund. (Ord. 2012-7. Passed 3-26-12.)

761.17 APPEALS.

Any person adversely affected by an order of the Village Administrator denying or revoking a permit to operate an adult cabaret may appeal such order to the Mayor of the Village. (Ord. 2012-7. Passed 3-26-12.)

761.18 REMEDIES AVAILABLE TO SOLICITOR.

The Solicitor or his or her designee may institute appropriate legal action, either civil or criminal, as authorized herein, or as may be otherwise available and appropriate either at law or in equity, which may, in the judgment of the Solicitor or his or her designee, be necessary for the enforcement of any order issued pursuant to this Chapter. Any such suit or proceeding is to be brought in the name of the Village. (Ord. 2012-7. Passed 3-26-12.)

761.19 VIOLATIONS.

(a) No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, in the Village, the operation of an adult cabaret without first having obtained a permit therefore from the Village.

(b) No owner or operator of an adult cabaret located in the Village shall knowingly:

(1) Refuse to allow appropriate State and local authorities, including police officers, access to the adult cabaret for any building, health or safety inspection, or any other inspection conducted to ensure compliance with this chapter;

(2) Operate during the hours designated in Section 761.12(a);

(3) Employ any person under the age of eighteen;

(4) Establish or operate an adult cabaret within 1,000 feet from the boundaries of a parcel of real estate having situated on it a school, church, library, public park, tavern, bar, carry-out, a sexually oriented business or other adult cabaret, or within 1,000 feet from the boundaries of any residential district.

(c) No employee of an adult cabaret, in the performance of his or her duties, shall do any of the following:

(1) Place his or her hand upon, touch with any part of his or her body, fondle in any manner, or massage, the genitals, pubic area or buttocks of any other person or the breast of any female, or, if the employee is a female, of any other female for the purpose of sexual stimulation;

(2) Perform or offer to agree to perform any act that will require touching of the genitals, pubic area or buttocks of any other person, or the breast of any female, or, if the employee is a female, of any other female, for the purpose of sexual stimulation;

(3) Uncover the genitals, pubic area or buttocks of any other person or the breast of any female, or, if the employee is a female, of any other female.

(Ord. 2012-7. Passed 3-26-12.)

761.99 PENALTY.

(a) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense.

(b) Whoever violates subsection (b) or (c) hereof is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500) or imprisoned not more than sixty days or both, for each offense.

(Ord. 2012-7. Passed 3-26-12.)

CODIFIED ORDINANCES OF CARROLLTON

**PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES
CODE**

TITLE ONE - Street and Sidewalk Areas

- Chap. 901. Streets.
- Chap. 903. Sidewalks.
- Chap. 905. Excavations.
- Chap. 907. Sidewalk Repair.

TITLE THREE - Utilities

- Chap. 921. Water.
- Chap. 925. Sewer.

TITLE FIVE - Other Public Services

- Chap. 941. Garbage and Rubbish Collection.

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CHAPTER 901

Streets

- 901.01 Conditions precedent to improving streets.**
- 901.02 Construction of new streets.**
- 901.03 Guidelines for resolution of storm sewer issues.**
- 901.04 Curb strip plantings.**
- 901.05 Fire hydrant plantings.**
- 901.99 Penalty.**

CROSS REFERENCES

Power to establish and care for streets - see Ohio R.C. 715.19, 717.01, 723.01
Digging, excavating and piling earth on streets - see Ohio R.C. 5589.10
Sidewalks - see S.U. & P.S. Ch. 903
Excavations - see S.U. & P.S. Ch. 905

901.01 CONDITIONS PRECEDENT TO IMPROVING STREETS.

No department of the Village shall accept, layout, open, improve, grade, pave, curb or light any street or other way unless such street or way has been accepted or opened or otherwise has received the legal status of a public street or way or unless such street or way corresponds in location and extent with a street or way shown on a recorded plat which has been legally accepted by Council. (Ord. 1-A-1944. Passed 8-14-44.)

901.02 CONSTRUCTION OF NEW STREETS.

(a) All streets to be constructed within the Village shall be constructed as follows:

(1) Right of way widths:

Primary	100 feet
Secondary	80 feet
Industrial	60 feet
Minor	60 feet

(2) Pavement widths:

Primary	50 feet
Secondary	44 feet
Industrial	36 feet
Minor	24 feet

(3) Parking on street permitted and prohibited:

Primary	Parking permitted on both sides
Secondary	Parking permitted on both sides
Industrial	Parking permitted on one side only

- (4) Profile grade of 3/8" per foot of pavement width, plus berm, if curb and gutter are not used.
- (5) Storm sewer piping and catch basins are mandatory, and their sizes will be determined in relation to the area in question.
- (6) The distance between the right of way and the storm sewer will be five feet and the profile grade will be the ratio of 3:1.
- (7) The area width for the storm sewer will be two feet.
- (8) The distance between the storm sewer and the berm, if used, will be 4 feet and the profile grade will be the ratio of 3:1.
- (9) The width of the berm, if used, will be four feet.
- (10) Sidewalks, if required by the Planning Commission and Council, will be five feet in width and a minimum thickness of four inches.
- (11) The use of #609 type 2 combination curb and gutter will be determined by the Planning Commission and Council by reason of the projected use of the land, its topography, and relationship to adjoining properties. The profile grade will be compatible with street surface grade.

(Ord. 1993-16. Passed 8-23-93.)

- (12) Minimum standards for street materials will be:
 - A. #204 Subgrade compaction and proof rolling.
 - B. #304 four (4) inches limestone aggregate base.
 - C. #301 seven (7) inches asphaltic concrete base course.
 - D. #448 one and one-half (1-1/2) inches asphaltic concrete intermediate course.
 - E. #448 one and one-half (1-1/2) inches asphaltic concrete surface course.
 - F. #408 prime coat applied at 0.4 gallons per square yard.
 - G. #407 tack coat applied between asphaltic concrete base course and asphaltic concrete intermediate course at 0.075 gallons per square yard and #407 tack coat applied between asphaltic concrete intermediate course and asphaltic concrete surface course at 0.040 gallons per square yard. (Ord. 2010-13. Passed 6-14-10.)
- (b) All concrete subdivision streets shall be constructed pursuant to the following specifications:
 - (1) Description. This work shall consist of a pavement composed of mesh, wire or fiber reinforced Portland cement concrete constructed on a prepared subgrade or base course in accordance with these specifications and in close conformity with the lines, grades, thicknesses and typical sections shown on the plans or established by the Engineer.
 - (2) Material. Material shall be:

Concrete: ASTM C 94 Alternate No. 2

4,000 psi at 28 days

6 ± 2% entrained air

maximum slump 5 inches

Joint sealer: ASTM D 3405

Curing material: ASTM C 309, M 171 or M 182

Tiebars and dowels: ASTM A 615, A 616, A 617 or A 775

Reinforcement: 10 gauge wire or equivalent fiber mesh.

(Ord. 1993-16. Passed 8-23-93.)

- (3) Pavement thickness. The concrete pavement thickness shall be as specified or in conformance with the following table:

5 inches	Through streets
6 inches	Collector streets
7 inches	Arterial streets

- (4) Equipment. Equipment shall be as follows:

- A. Regular finishing equipment for finishing concrete pavements shall be mechanical, self-propelled spreading and finishing machines either the slip-form or form riding types, and shall be capable of compacting and finishing the concrete.
- B. If side forms are used they shall be straight, and of a depth equal to or greater than the specified thickness of the pavement. All forms shall be in sections not less than ten feet in length on a base width sufficient to prevent displacement from line or grade during paving. Flexible or curve forms shall be used for construction of circular pavement where the radius is 100 feet or less. Forms shall have adequate devices for secure setting and locks for joining the ends of abutting form sections together tightly.
- (5) Backfilling trenches. Trenches for installation of utilities and drainage shall be carefully backfilled to avoid subsequent consolidation and settlement. All trenches under the pavement area shall be backfilled using Controlled Density Fill (CDF) material. The CDF shall extend for the full depth of the trench up to the subgrade level. Trenches beyond the pavement area may be backfilled with CDF, soil or granular materials.
- (6) Subgrade preparation. The subgrade under all pavement areas shall be constructed to the specified line and grade. It shall be compacted to the maximum uniform density at, or slightly above, optimum moisture. Moisture shall be maintained at, or slightly above, optimum until the concrete pavement is constructed. All areas that cannot be compacted to the uniform density and areas that are soft or spongy shall be removed, replaced with suitable material similar to the adjoining subgrade and compacted, or with Controlled Density Fill.
- (7) Finegrading of subgrade or base.
 - A. After the subgrade has been compacted to the specified density, the areas on which the pavement is to be constructed including the areas which will support the paving machine or side forms shall be cut to the plan elevation. If side forms are used, they shall be set to line and grade and securely fastened.
 - B. A minimum two inch base shall be placed, compacted and brought to final grade after the subgrade is completed and accepted. The base shall be daylighted to the slope.
- (8) Placing concrete. The concrete shall be deposited on prepared subgrade or base in a manner that requires as little rehandling as possible. For concrete placed when the temperature of the air is thirty-five degrees Fahrenheit or below, the concrete immediately after placing shall have a temperature between fifty and eighty degrees Fahrenheit. The subgrade or base shall be entirely free from frost when concrete is deposited.
- (9) Consolidating and finishing. The pavement shall be finished by an approved slip-form paver or form riding finishing machine operated

over each section of pavement to produce the specified results.

- A. On small projects with variable widths the pavement may be finished by an approved vibratory screed in lieu of a finishing machine.
- B. The surface shall be continuously checked for trueness with ten-foot straightedges. If the pavement surface is dragged with a diagonal or vee-shaped float, only occasional straightedge surface checks, while the concrete is plastic, will be required.
- C. Before the concrete has taken its initial set, the edges of the pavement along each side shall be worked with an approved tool and rounded to a radius of one-fourth inch. The edges along each side of an expansion joint shall be rounded to a radius of one-eighth inch. The pavement shall be textured to provide a satisfactory surface. A transverse broom texture or an artificial turf drag shall be applied to provide a uniform gritty texture.

(10) Joints. Joints shall be constructed to the type, dimensions and at locations specified.

- A. Longitudinal joint. Longitudinal joints shall be constructed by sawing or by forming between adjoining lanes of concrete pavement. Normally the distance between longitudinal joints or longitudinal joints and pavement edges will be twelve feet. In no case should this distance exceed sixteen feet.
If the longitudinal joint between simultaneously placed lanes is made with a concrete saw, sawing shall be done to a minimum depth of one-third of the specified pavement thickness as soon as possible, but no later than the following day. The width shall be approximately one-eighth inch.
- B. Transverse joints. Transverse joints shall be constructed by sawing to a minimum depth of one-fourth of the specified pavement thickness and a maximum width of three-eighths inch (determined at the time of sawing). joints shall be continuous across the full width of slab, including adjoining lanes, curbs, and curb and gutter sections. Joints shall be sawed as soon as the saw can be operated without damaging the concrete. In lieu of sawing, joints may be hand formed on small projects or on irregular shaped sections of the pavement, as approved by the Engineer.
Unless otherwise indicated on the plans, maximum spacing of transverse joints shall be in accordance with the, following:

<u>Pavement Thickness (inches)</u>	<u>Maximum Spacing (feet)</u>
5	12
6	15
7	15

The maximum spacing of transverse joints should not exceed fifteen feet for plain concrete pavements regardless of thickness.

- C. Construction joints. Construction joints shall be constructed at the end of each day's work and whenever necessary to suspend work for more than thirty minutes.
- D. Load transfer. Load transfer devices are only required in transverse expansion and construction joints in arterial streets. One inch smooth round dowels shall be placed at one-foot intervals transversely and at mid-depth of the pavement. An assembly shall be used to maintain dowels parallel to the centerline of the pavement surface, and to one another during construction.
Tiebars shall be installed at five foot intervals in the longitudinal joints in streets without curbs or curb and gutter sections. Tiebars shall be five-eighths inch diameter deformed bars, thirty inches in length. They shall be installed at mid-depth of the pavement.
- E. Expansion joints. Expansion joints shall be constructed on each side of a bridge at approximately twenty and sixty feet from the bridge approach slab. A one-inch thick pre-formed filler shall extend the full width and depth of the pavement. If joint sealing is specified, an opening one inch in width by one inch in depth shall be formed for installation of the joint sealer.
- F. Isolation joints. A minimum one-fourth inch thickness pre-formed filler shall be installed wherever the pavement abuts adjoining concrete or masonry walls, around manholes, catch basins and all interruptions in the pavement. The filler shall extend the full width and depth of the pavement to isolate the new concrete from existing and allow for differential vertical movements.

- (11) Curbs. Curbs shall be constructed along the edges of all street where shown on the plans and shall be formed to the cross-section specified. Curbs, and curbs and gutters, may be constructed integrally with the pavement using slipform or extrusion equipment, or placed immediately after finishing operations using face forms, or they may be hand formed. Curbs, or curb and gutter sections, may be constructed as a separate operation before or after pavement construction using forms, slipforms or extrusion equipment. If constructed prior to the pavement, the curb and gutter section may be used as forms.

- (12) Curing. Immediately after the finishing operations have been completed and after the free water has evaporated from the surface, the concrete shall be cured by spraying thereon a uniform application of curing membrane in such a manner as to provide a continuous uniform film without marring the texture of the surface. A minimum of one gallon of material shall be used for each 200 square feet of surface. Curing material shall be thoroughly agitated immediately prior to use.

If forms are used, the pavement edges shall be coated with the curing material as soon as the forms are removed. Any areas of pavement film that may have been damaged shall be resprayed during this operation. Curing may also be accomplished by means of water curing with wet burlap cloth, waterproof paper or polyethylene sheeting. Curing shall be applied as soon after the finishing operations as possible without marring the surface texture. Curing shall be continued for seven days unless specimen beams have attained a modulus of rupture of 600 psi.

The contractor responsible for protecting the concrete from freezing. The above requirements are minimum requirements only. Any concrete showing injury or damage due to inadequate or improper curing shall be repaired by the contractor at no additional cost.

- (13) Surface smoothness. The concrete pavement surface shall be constructed to a tolerance of one-fourth inch in ten feet. Sections of pavement containing depressions that cannot be corrected by grinding shall be repaired by the contractor.

- (14) Sealing joints. Joint sealing is specified. Joints shall be sealed as soon after completion of the sawing as is feasible and before the pavement is opened for use. Just prior to sealing, each joint shall be thoroughly cleaned of all foreign material by a jet of water or air under pressure. The joint faces shall be clean and surface dry when the seal is applied. For transverse joint sealing, backer rod material shall be installed in each joint so the top is three-fourths of an inch below the pavement surface. Joint seal material shall be applied and the surface struck-off so that the top of the sealing material is one-fourth of an inch below the pavement surface. The completed sealed joint shall be clean and neat without any sealing material on the

pavement surface.

- (15) Opening to traffic. The completed pavement may be opened for general use when seven days have elapsed. The pavement may be opened for general use when seven days have elapsed. The pavement may be opened to local traffic after three days have elapsed, provided that test beams are made and a modulus of rupture of 600 psi has been attained.

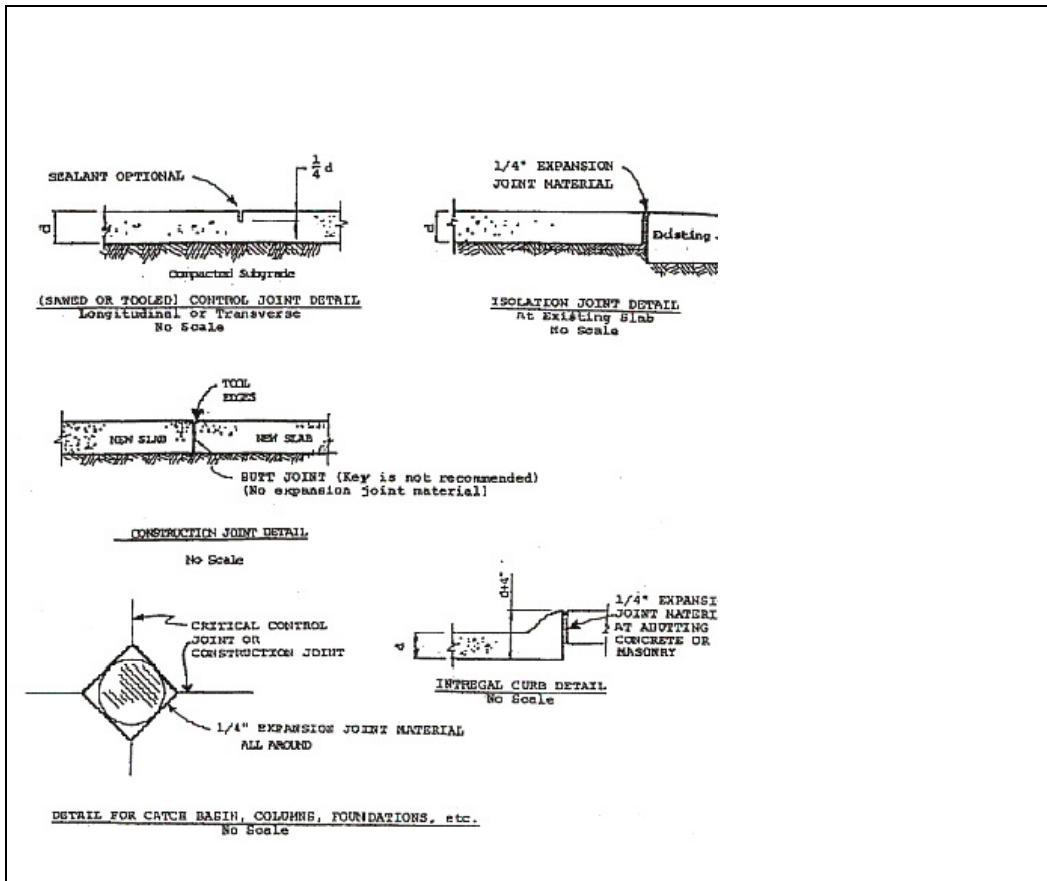
(16) The following illustrations are provided to supplement the previous concrete street specifications. (See Exhibit A.)

(c) Inspection personnel will be designated by Council and all costs for same will be paid by the developer. The charge for inspections of street construction shall be the actual expense incurred on an hourly basis.

(d) A street profile, drawn by a registered engineer, will be provided showing grade, street name, street materials and specifications, any utilities within street right of way and any other pertinent information necessary for proper street construction. Copies will be provided for Planning Commission, Clerk-Treasurer, Board of Public Affairs and Council.

(e) For a period of three years from completion of street construction, the developer shall make any repairs required by Council.

(f) Whenever the strict enforcement of this section would entail unusual, real and substantial difficulties or hardships, the Planning Commission and Council may vary or modify the terms in such a way that the subdivider is allowed to plan and develop his property and make necessary improvements without unjust difficulties and hardships, if at the same time the public interests of the Municipality are fully protected and the general intent and purpose of this section is preserved. (Ord. 1990-13. Passed 7-9-90.)



901.03 GUIDELINES FOR RESOLUTION OF STORM SEWER ISSUES.

(a) In the event an issue arises pertaining to problems or potential problems concerning the Village of Carrollton's storm sewer management, affecting both the Village's interests and interests of one or more Village resident(s), and being located on private property, the Village of Carrollton, through its Council, shall have the discretion to determine what, if any, benefit to the Village will result from the Village's involvement and participation in remedying the given situation.

(b) Upon a determination that the Village's involvement is appropriate, the Village, through its Council, shall determine what portion of the cost, if any, the Village should assume and pay.

(c) The Village, through its Council, its Village Administrator, and any appropriate committee of Council, shall use every effort to amicably and reasonably resolve such issues with the residents involved. (Ord. 2001-28. Passed 6-25-01.)

901.04 CURB STRIP PLANTINGS.

No person, firm or corporation shall plant or set, nor in any way use the rights of way of Village thoroughfares, streets, alleys, public utility rights of way or curb strips for planting any trees or shrubs, without first obtaining the prior written approval of the Village Administrator and/or the Mayor and an authorized representative of any public utility having a right of way. (Ord. 2011-45. Passed 11-28-11.)

901.05 FIRE HYDRANT PLANTINGS.

No person, firm or corporation shall plant, set or permit trees, shrubs or other plantings to encroach within five feet around the circumference of any fire hydrant. Maintenance of existing plants, trees or shrubs shall ensure that a circumference of five feet of clear space exists around any fire hydrant.

(Ord. 2011-45. Passed 11-28-11.)

901.99 PENALTY.

(a) Whoever violates Sections 901.04 or 901.05 shall receive a written notification by US Registered Mail, Return Receipt Requested, to remove the encroaching planting within thirty days of receipt of the notification.

(b) Whoever fails to remove the encroaching plantings in violation of the written notification shall be guilty of a minor misdemeanor and fined not more than fifty dollars (\$50.00). A separate offense shall be deemed to occur each day during or on which a violation occurs or continues. (Ord. 2011-45. Passed 11-28-11.)

CHAPTER 903

Sidewalks

903.01 Supervision; specifications; contracts for work.

CROSS REFERENCES

Sidewalk maintenance - see Ohio R.C. 723.01, 723.011
Notice to construct or repair sidewalks - see Ohio R.C. 729.03
Sidewalk obstructions; damage or injury - see GEN. OFF. 521.04
Duty to keep sidewalks clean and in repair - see GEN. OFF. 521.06
Streets - see S.U. & P.S. Ch. 901
Excavations - see S.U. & P.S. Ch. 905

903.01 SUPERVISION; SPECIFICATIONS; CONTRACTS FOR WORK.

It shall be the duty of the Village Engineer or, if none exists, the Street Commissioner, to supervise the construction or repair of sidewalks within the Village. He shall cause specifications to be prepared for the construction of the various kinds of pavements and transmit the same to Council for its approval. When such specifications are approved, Council shall advertise for proposals to do all work which may be ordered by the Village in construction and repair of sidewalks and shall contract therefor, for a period not exceeding one year, with the lowest responsible bidder, who shall furnish good and sufficient sureties for the faithful performance of the work. Council, if it deems it advisable, may make separate contracts for different kinds of work with different parties.

(Ord. 1-A-1944. Passed 8-14-44.)

CHAPTER 905

Excavations

905.01 Permit required; bond; specifications.

905.02 Holding of bond; barricades and warning lights.

905.03 Completion of work; deficiencies and corrections.

905.04 Minimum standards for the construction, repair of storm sewers.

905.99 Penalty.

CROSS REFERENCES

Openings by the Municipality - see Ohio R.C. 723.02
Surface treatment - see Ohio R.C. 723.23, 723.31
Excavation liability - see Ohio R.C. 723.49 et seq.
Construction or repair at owner's expense - see Ohio R.C. 729.01 et seq.
Notice to construct or repair sidewalks - see Ohio R.C. 729.03
Digging, excavating and piling earth on streets - see Ohio R.C. 5589.10
Barricades and warning lights; abandoned excavations - see GEN. OFF. 521.03
Sidewalk obstructions; damage or injury - see GEN. OFF. 521.04
Streets - see S.U. & P.S. Ch. 901
Sidewalks - see S.U. & P.S. Ch. 903

905.01 PERMIT REQUIRED; BOND SPECIFICATIONS.

No person shall open, obstruct, dig, excavate or break the surface of any street, street right of way, curb, sidewalk, or alley in the Village unless:

- (a) The person has first applied for a permit on the form specified by Council and paid a permit fee of five dollars (\$5.00);
- (b) The person has first deposited with the Clerk-Treasurer a two hundred and fifty dollar (\$250.00) bond, this provision of posting bond shall not apply to the repair, construction, or replacement of sidewalks.

(Ord. 1995-08. Passed 7-24-95.)

- (c) The Street Superintendent has inspected the work to be done and approved written specifications, a copy of which is to be kept with the bond, for the closing and repair of the street, curb, sidewalk, alley or storm sewer;

- (d) The specifications have been approved in writing by the person seeking to do the work, prior to beginning work.

(Ord. 1995-02. Passed 3-13-95.)

- (e) The person has notified the Village Administrator at the beginning of excavation and has notified the Village Administrator at the completion of any excavation so as the Village Administrator may inspect the work to determine the suitability of the work done.

(Ord. 2003-16. Passed 7-28-03.)

905.02 HOLDING OF BOND; BARRICADES AND WARNING LIGHTS.

(a) The bond required by Section 905.01 shall be held for thirty days after the work has been completed according to the specifications of the Street Superintendent.

(b) The applicant shall erect, maintain, at all times until the work is completed, suitable and approved warnings, lights and any other required safeguards, to the satisfaction of the Street Superintendent or the Mayor.

(Ord. 1995-02. Passed 3-13-95.)

905.03 COMPLETION OF WORK; DEFICIENCIES AND CORRECTIONS.

(a) If the work is not completed to the satisfaction of the Street Superintendent, the Village shall either replace or correct the work, applying bond money to cover the expense, or permit the person depositing the bond to do so to the satisfaction of the Village after an additional fifteen day waiting period to determine the suitability of the work done.

- (b) If, at the end of the fifteen days, the work is satisfactory to the Street Superintendent, the bond shall be returned.

- (c) Any deficiency incurred shall be paid by the person who approved the specifications as provided in Section 905.01(d).

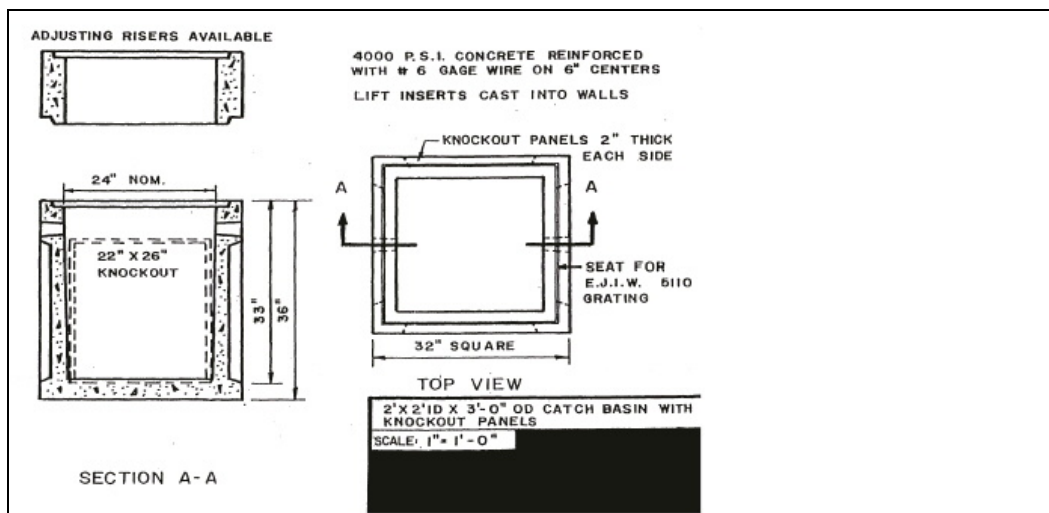
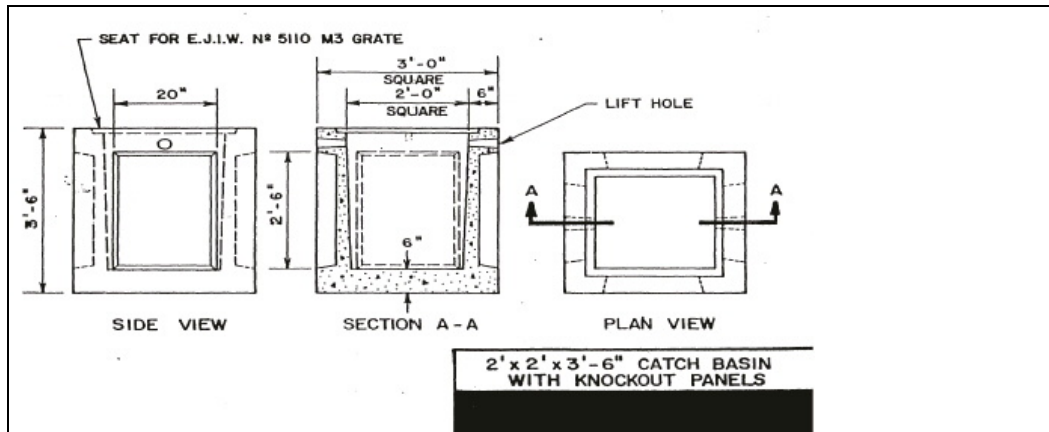
(Ord. 1995-02. Passed 3-13-95.)

905.04 MINIMUM STANDARDS FOR THE CONSTRUCTION, REPAIR OF STORM SEWERS.

- (a) Storm sewers upon the right of way street shall be constructed of gasket sewer pipe S.D.R. - 35, A.S.T.M. 3034, and/or N12, twelve inches minimum or larger depending on water flow. No elephant trunk pipe shall be permitted. (Ord. 2001-17. Passed 5-14-01.)
- (b) Storm sewer grate and frames used in the construction or repair of storm sewers upon any street right of way shall be constructed of Victory White Type M3 heavy duty sinusoidal grate and frame or of equal or superior construction.
- (c) Catch basins upon the right of way of any street shall be constructed in accordance with the specifications listed in Exhibits A and B, attached and incorporated herein by reference.
(Ord. 1995-02. Passed 3-13-95.)

905.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.
(Ord. 1995-02. Passed 3-13-95.)



CHAPTER 907

Sidewalk Repair

- 907.01 Sidewalk repair required.**
907.02 Failure to comply; Village to repair.
907.03 Cost recovery; lien.
 907.04 Sidewalk Repair Assistance Program.
907.99 Penalty.

CROSS REFERENCES

Sidewalk maintenance - see Ohio R.C. 723.01, 723.011
 Notice to construct or repair sidewalks - see Ohio R.C. 729.03
 Duty to keep sidewalks clean and in repair - see GEN. OFF. 521.06
 Sidewalks - see S.U. & P.S. Ch. 903
 Excavations - see S.U. & P.S. Ch. 905

907.01 SIDEWALK REPAIR REQUIRED.

- (a) No owner, agent, lessee or other person who may have a vested or contingent interest in any lot or parcel of ground in the Village shall fail to repair the sidewalk and curbing which abuts on such lot or parcel of ground, after having been notified to do so by the Building and Zoning Inspector and after having been given thirty days to commence the required repairs as specified by the Inspector.
- (b) For purposes of this section, a sidewalk or any part thereof is deemed unsafe and in need of repair when any one of the following conditions exist therein:
- (1) When the sidewalk contains a hole which is one inch or more in depth and eight or more square inches in surface area;
 - (2) When there is a differential settlement in the sidewalk at a crack or joint therein or an abrupt elevation or depression in a cracked or broken sidewalk or at a joint, causing one portion of the sidewalk to be one inch or more higher or lower than that portion

of the sidewalk or curb immediately contiguous thereto;

- (3) When in a brick sidewalk, one-half or more brick is missing, or when the condition of the sidewalk falls within subsections (b)(1) or (2) hereof;
- (4) When a concrete sidewalk is crushed and/or broken to the extent that there are five or more pieces within the average size square of that sidewalk or eight square feet whichever is smaller;
- (5) When the surface of a concrete sidewalk is spalled to present a rough texture of stone or gravel and covers an area of the average size square of that sidewalk or eight square feet, whichever is smaller.

(c) For purposes of this section, a curb is deemed unsafe and in need of repair when there is at least a two-inch separation in any part of the horizontal section; and/or there is any deterioration of the vertical section which withdraws, or could withdraw, support from the adjoining sidewalk area or other portion of the curbing.

(d) For purposes of notice of defects set forth in subsections (b)(1) to (5) and (c) hereof, a written notice specifying such defects shall be served on the owner or tenant of the abutting property, or on the person, firm or corporation having control or management of such abutting property, in the following manner and priority:

- (1) Personal service or certified mail service;
- (2) If service cannot be effected under subsection (d)(1) hereof then such notice shall be made by mailing the notice by regular mail to owner, tenant or person in charge of such property. Failure of return of such mail to the sender shall be deemed evidence of receipt of such notice by the addressee;
- (3) If service cannot be effected as set forth in subsection (d)(1) and (2) hereof, then such notice shall be posted on the residence or building on the abutting premises, or affixed to any attachment place on such property.

(e) Notice shall be effected as provided in subsection (d) hereof at least thirty days in advance of the date fixed in the notice to complete repair or correction of the defects specified. (Ord. 1985-7. Passed 9-23-85.)

907.02 FAILURE TO COMPLY; VILLAGE TO REPAIR.

In case the owner, agent, lessee or person in control cannot be found within the stated time limit, or if such owner, agent, lessee or person in control fails, neglects or refuses to comply with a notice to repair, the Street Superintendent shall cause such repairs to be made with the costs incurred therein being recovered in the manner prescribed in Section 907.03.

(Ord. 1985-7. Passed 9-23-85.)

907.03 COST RECOVERY; LIEN.

Costs incurred under Section 907.02 shall be paid out of the Village Treasury on certificate of the Street Superintendent. Such costs shall be charged to the owner of the premises involved. If the Village is not immediately reimbursed for such costs, the Village Clerk-Treasurer shall certify to the County Auditor the costs incurred, including the cost of service or publication of notice and any reasonable administrative costs, together with a proper description of the premises and such costs shall become a lien against such premises, shall be collected as other taxes and returned to the Municipality as provided in Ohio R.C. 715.261.

(Ord. 1985-7. Passed 9-23-85.)

907.04 SIDEWALK REPAIR ASSISTANCE PROGRAM.

The Village of Carrollton Sidewalk Repair Assistance Program, in which the Village will contribute fifty percent (50%) of the project cost in financial assistance not to exceed two thousand five hundred dollars (\$2,500) per sidewalk project, previously funded in an amount not to exceed fifteen thousand dollars (\$15,000.00), and the 50/50 Sidewalk Replacement Program Application Form are hereby approved as set forth in Exhibit A attached to original Ordinance 2020-38.

(Ord. 2020-38. Passed 9-14-20.)

907.99 PENALTY.

Whoever violates or fails to comply with any provisions of this chapter shall be fined not more than one hundred dollars (\$100.00) for each offense. Each day's continued violation after the completion date in the notice of violation or required compliance shall be deemed a separate offense.

(Ord. 1985-7. Passed 9-23-85.)

TITLE THREE - Utilities

Chap. 921. Water.

Chap. 925. Sewer.

CHAPTER 921

Water

- 921.01 Title changes; reconnection; discontinuation of service.**
- 921.02 Rates.**
- 921.03 Backflow prevention device.**
- 921.04 Water/sewer regulations prior to subdivision acceptance.**
- 921.05 Drilling water wells prohibited.**
- 921.06 Service Termination Policy.**
- 921.07 Extension of water and sewer lines and services outside of the Municipal corporation.**
- 921.08 Penalty for delinquent water and sewer accounts.**
- 921.09 Monthly billing for water and sewer services.**
- 921.10 Water and sewer rates.**
- 921.99 Penalty.**

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, 743.25

Compulsory water connections - see Ohio R.C. 729.06, 743.23

Tampering; unauthorized connections - see Ohio R.C. 4933.22

Fluoridation - see Ohio R.C. 6111.13

Water pollution control - see Ohio R.C. Ch. 6111

Water supply - see OAC 4101:2-51-37

Backflow - see OAC 4101:2-51-38

Tampering; theft - see GEN. OFF. 545.19

921.01 TITLE CHANGES; RECONNECTION; DISCONTINUATION OF SERVICE.

(a) In the event that the owners of a dwelling or parcel of property to which water service is provided split up, sell or subdivide their ownership in such a manner that the title to the dwelling or property is changed, or part of the premises is sold, then a new water tap shall be made to the Village water system, at a location determined by the Village Administrator and under his supervision and at the sole and entire expense (including the tap fee) of the seller or grantor of the property.

(b) The new tap or connection shall be constructed upon or before the sale or transfer of the property involved.

(c) In the event the owner fails or neglects to comply with the provisions of this section, the Village Administrator is hereby authorized to enter the owner's premises and to shut off and discontinue water service to the entire lot or tract or discontinue service to the portion sold, such discontinuation being in addition to the penalty provided in Section 921.99.

(Ord. 1959-3. Passed 10-8-59.)

921.02 RATES.

(a) The rates charged to consumers within and without the Village for water furnished shall be as affixed by Council.

Water provided to consumers outside the Village shall be at the rates established herein plus an additional twenty percent (20%).
(Res. 1994-22. Passed 12-19-94.)

921.03 BACKFLOW PREVENTION DEVICE.

(a) If, in the judgment of the Superintendent of Water or local approving authority, an approved backflow prevention device is necessary for the safety of the public water system, the approving authority shall 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 approving authority 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 by connection whereby a private, auxiliary or emergency water supply other than the regular public water supply of the Village may enter the supply or distributing system of such 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 approving authority and by the Ohio Environmental Protection Agency.

(c) It shall be the duty of the approving authority 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 approving authority shall deem necessary.

(d) The approving authority 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 Carrollton for the purpose of inspecting the piping system or systems thereof. On demand the owner, lessees or occupants of any property so served shall furnish to the approving authority any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information, when demanded, shall, within the discretion of the approving authority be deemed evidence of the presence of improper connections as provided in this section.

(e) The approving authority 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.
(Res. 1988-12. Passed 4-18-88.)

921.04 WATER/SEWER REGULATIONS PRIOR TO SUBDIVISION ACCEPTANCE.

(a) All subdividers and developers, when submitting a preliminary plat to the Planning Commission, for any residential, commercial or industrial subdivision or development, shall include a metes and bounds description for all easements for water and sewer lines traversing or bounded by all lots, acreage or roadways within such subdivision or development. Such description shall provide for at least a thirty foot easement. All original easements shall be properly executed by the owner of the subdivision or development recorded and delivered to the Clerk-Treasurer within sixty days of final approval by Council of the subdivision or development.

(b) Each developer or subdivider shall submit a map along with a metes and bounds description, such map designating the location of all water/sewer lines, distances between manholes, the measurement and location of each lateral located in the plat and the curb box or service connection of the proposed water line.

(c) As a condition to approval by Council of any subdivision or development, a developer or subdivider shall, if the Village Administrator requests, provide access through the subdivision or development water and sewer lines for an extension of such lines beyond the subdivision to adjacent lands. To facilitate this access, the developer or subdivider shall, upon the Village Administrators' request, provide a written, fully executed easement for area over and across a lot or portion of the proposed subdivision or development providing such potential access to adjacent lands, per subsection (a) hereof.

(d) The subdivider or developer shall provide the Village with a one year warranty on all water and sewer lines and other components necessary to provide water and sewer service to the subdivision from the time of installation. During this one year warranty period, the subdivider or developer shall assume all maintenance and repair costs incurred or which are necessary. At or before the expiration of this one year period, the water and sewer lines and components shall be inspected by a designated representative of the Water and Sewer Department. Should the inspection reveal the need for any repairs or maintenance for such lines and components, the subdivider or developer shall make all such necessary repairs. In the alternative the Village may make all necessary repairs and changes and charge the costs to the subdivider or developer.

(e) The subdivider or developer shall assume all costs and expenses related to the construction and installation of the water and sewer lines and components in each place or subdivision for which the subdivider seeks approval. The subdivider or developer shall hold the Village harmless for all such costs and expenses. The Village Council has the right to refuse final approval of the plat without written documentation that all construction costs have been paid or secured to be paid.

(f) (1) The subdivider or developer must submit, as a part of the preliminary plat, detailed written plans and maps specifically designating the proposed subdivision or development which plans are sufficiently detailed to allow the Water and Sewer Department to make a determination whether the water and sewer lines and components proposed are able to provide adequate service to the residents or occupants of the development or subdivision. A representative of the Water and Sewer Department shall provide a written recommendation to approve or deny the proposed plan. If the plan is not approved, the Water and Sewer Department shall state in writing the specific requirements yet to be met before approval granted. The recommendation must be submitted to the Planning Commission between the submission of the preliminary plat and the next regular meeting of the Planning Commission.

(2) After approval of the preliminary plan, the subdivider or developer must, if he or she proposes any changes in the approved water and

sewer lines and components, obtain additional written approval from the Water and Sewer Department prior to the commencement of construction. If further easements are necessary for the changes, compliance with subsection (a) is also required.

(g) Actual construction of the water and sewer lines and components must comply with the approved maps.

(h) Subdividers shall assume the cost of having the water and sewer line inspected by the Village at any or all stages of the installation.

(Ord. 1990-06. Passed 6-11-90.)

921.05 DRILLING WATER WELLS PROHIBITED.

(a) No owner, lessee or occupant of any piece of real property within the Village shall drill or reopen any water wells except as otherwise authorized by the Ohio Revised Code.

(b) Whoever violates this section is guilty of a minor misdemeanor.

(Ord. 2011-32. Passed 9-12-11.)

921.06 SERVICE TERMINATION POLICY.

The Water Service Termination Policy as attached to Ordinance 1999-11 is on file with the Clerk-Treasurer.

921.07 EXTENSION OF WATER AND SEWER LINES AND SERVICES OUTSIDE OF THE MUNICIPAL CORPORATION.

(a) Except as provided in paragraphs (c), (d), (e) and (f) below, the water and sewer services will not be extended to any area outside of the corporation limits of the Village of Carrollton, Ohio.

(b) Except as provided in paragraphs (c), (d), (e) and (f) below, water and sewer lines presently servicing areas outside of the corporation limits of the Village of Carrollton will not be extended beyond present bounds.

(c) Nothing in this section shall contradict or amend any existing oral or written agreement, contract or understanding to which the Village is a party in regard to water and sewer service.

(d) The water lines outside the corporation limits of the Village shall not be extended but adjoining property owners may tap on to existing lines pursuant to other resolutions of Council. Council may consider extending a water line in a case where the Village Administrator recommends the extension to benefit the Village's water system.

(e) The sewer lines outside the corporation limits of the Village shall not be extended and connections thereto shall only be extended and connections thereto shall only be allowed where a private person, corporation, etc., has paid for the cost of the entire extension and is reimbursed by connecting adjoining property owners. In the case of a sewer line which has been extended by the Village, Council shall consider hookup on an individual basis.

(f) The property owner (and future transferees) will sign any and all future petitions related to annexation as a condition of the extension of municipal services. If the property owner (or future transferee) refuses to sign the annexation petition, the property owner (or future transferee) grants the Mayor of the Municipal Corporation the uncontested Power of Attorney to sign the annexation petition on the owner's (or future transferee's) behalf.

(Ord. 2011-33. Passed 9-12-11.)

921.08 PENALTIES FOR DELINQUENT WATER AND SEWER ACCOUNTS.

(a) Upon the first day of the first month following the passage of this section, the penalty for any and all delinquent water and/or sewer accounts within the Village shall be increased from ten percent (10%) of the outstanding balance to fifteen percent (15%) of the outstanding balance.

(b) Upon the first day of the first month following the passage of this section, if an account for water or sewer service within the Village becomes delinquent as defined in prior ordinance(s) and such service is temporarily disconnected or turned off as authorized by prior ordinance(s), a disconnection fee of twenty dollars (\$20.00) shall be added to the account. Such disconnection fee is in addition to any fees charged to reestablish service.

(Ord. 2006-27. Passed 10-23-06.)

921.09 MONTHLY BILLING FOR WATER AND SEWER SERVICES.

(a) Commencing January 1, 2010, the Village Water and Sewer Department shall bill for services on a monthly billing cycle.

(b) The Village Administrator, or his designee, is hereby authorized to establish procedures to institute said billing cycle.

(Ord. 2009-88. Passed 12-28-09.)

921.10 WATER AND SEWER RATES.

Effective the first day of January, 2010, the rates are hereby established for water and sewer usage for consumers inside the Village. The rates are as follows:

2010 Monthly Water and Sewer Rates

Water

0 to 2000 Gallons \$12.00 \$.006/gallon

Each additional gallon \$.005/gallon

(Res. 2009-89. Passed 12-28-09.)

Sewer - Inside Village

0 to 2000 gallons \$12.00 \$.006/gallon

Each Additional Gallon \$.006/gallon

Sewer - Outside Village (45% surcharge)

0 to 2000 gallons \$17.40 \$.0087/gallon

Each Additional Gallon \$.0087/gallon

(Ord. 2011-51. Passed 1-9-12.)

Storm Water Assessment

\$2.00

Total Minimum Bill \$24.00

(Res. 2009-89. Passed 12-28-09.)

921.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be guilty of a minor misdemeanor and fined not more than one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Sewers

EDITOR'S NOTE: Ordinance 1986-13, passed October 13, 1986, established regulations governing the usage of and charges for the Village sewer system and wastewater treatment plant. These regulations are not codified herein. For a copy of these regulations, please consult the Clerk-Treasurer.

925.01 Definitions.

925.02 User charge system.

925.03 Industrial cost recovery system.

925.04 Sewer Revenue Fund.

925.05 Use of public sewers required.

925.06 Private wastewater disposal.

925.07 Building sewers and connections.

925.08 Use of public sewers restricted.

925.09 Admission of industrial wastes into public sewers.

925.10 Control of admissible wastes.

925.11 Industrial waste surcharges.

925.12 Rules and regulations.

925.13 Remedies for nonpayment.

925.14 Protection from damage.

925.15 Powers and authority.

925.16 Appeals.

925.17 Monthly assessment for storm sewer use.

925.99 Penalty.

CROSS REFERENCES

Power to license sewer tappers and vault cleaners - see Ohio R.C. 715.27

Power to regulate water closets and privies - see Ohio R.C. 715.40

Power to construct sewerage system - see Ohio R.C. 715.40, 717.01

Compulsory sewer connections - see Ohio R.C. 729.06

Sewerage rates - see Ohio R.C. 729.49

Regulations to control house sewers and connections - see Ohio R.C. 729.51

Weekly deposit of sewer rentals collected - see Ohio R.C. 729.52

Untreated sewage - see Ohio R.C. 3701.59

Interference with sewage flow - see Ohio R.C. 4933.24

Assessments - see Ohio R.C. Ch. 729

Household sewage disposal systems - see OAC Ch. 3701-29

Tampering; theft - see GEN. OFF. 545.19

925.01 DEFINITIONS.

(a) As used in this chapter:

- (1) "Act" means the Federal Water Pollution Control Act as amended, contained in the Clean Water Act of 1977 (Public Law 95-217, or the "1977 Act").
- (2) "Approving authority" means the Board of Trustees of Public Affairs of the Village, its duly authorized deputy, agent or representative.
- (3) "Biochemical Oxygen Demand (BOD)" means the quantity of oxygen, expressed in milligrams per liter, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of twenty degrees centigrade (20⁰ C). The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods", Section 145, herein.
- (4) "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of any building and conveys such discharge to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.
- (5) "Building sewer" means the extension, from the building drain, to the public sewer or other place of disposal; may also be called a house connection.
- (6) "Village" means the Village of Carrollton, Ohio.
- (7) "County" means the County of Carroll, Ohio.
- (8) "Chlorine requirement" means the amount of chlorine, in milligrams per liter, which shall be added to sewage to produce a specified residual chlorine content, or to meet the requirements of some other objective, in accordance with procedures set forth in "Standard Methods", Section 145.
- (9) "Combined sewer" means a sewer intended to serve as a sanitary and a storm sewer, or as an industrial sewer and a storm sewer.
- (10) "Commercial user" means a class of user who usually contributes primarily segregated domestic wastes or wastes from sanitary conveniences.
- (11) "Compatible pollutant" means BOD, SS, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit for which the treatment facilities were designed to treat such pollutants, and, in fact does remove such pollutants to a substantial degree.
- (12) "Debt service" means the payments required to retire the treatment facilities debt through cash generated during the period of time that the debt is outstanding.
- (13) "Engineer" means a Sanitary Engineer as may be designated by the Board of Trustees of Public Affairs.
- (14) "Federal agency" means the United States Environmental Protection Agency (EPA); may include other Federal agencies such as the Department of Housing and Urban Development (HUD), the Farmers Home Administration (FmHA) and the Economic Development Administration (EDA), etc.
- (15) "Garbage" means the solid waste from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.
- (16) "Ground garbage" means garbage that has been shredded to such a degree that all particles will be carried freely in suspension under the

flow conditions normally prevailing in public sewers with no particle greater than one-half inch in any dimension.

- (17) "Governmental user" means a class of user who usually contributes primarily segregated domestic wastes or waste from sanitary conveniences.
- (18) "Incompatible pollutant" means any pollutant which is not defined as a compatible pollutant.
- (19) "Industrial cost recovery" means the recovery by the Village from industrial users of the Village wastewater treatment facilities of the Federal grant amount allocable to the treatment of waste from such industrial users; and, the commercial users of an individual system of the Federal grant amount allocable to the treatment of waste from such users.
- (20) "Industrial cost recovery period" means that period during which the capital improvement amount allocable to the treatment of wastes from industrial users of such facilities; a period equal to thirty years, or to the useful life of the treatment facilities, whichever is less.
- (21) "Industrial user" means:
 - A. Any nongovernmental user of the Village-owned treatment facilities which discharges more than 25,000 gallons per day of sanitary waste or a volume of process waste, or combined process and sanitary waste, equivalent to 25,000 gallons per day of sanitary waste.
 - B. Any nongovernmental user of the Village-owned treatment facilities which discharges wastewater to the treatment facilities which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment facilities.
 - C. All commercial users of an individual treatment system constructed with Federal grant assistance.
- (22) "Industrial waste" means the liquid wastes from industrial operations and/or processes as distinct from segregated domestic wastes or wastes from sanitary conveniences.
- (23) "Inspector" means an authorized representative of the Village whose primary function is to determine whether any, or all, users comply with this chapter and the regulations of the Village.
- (24) "Institutional user" means a class of user who usually contributes primarily segregated domestic wastes or waste from sanitary conveniences; usually identified as hospitals, sanitariums, prisons, etc.
- (25) "Metering" means the mechanical or other means and/or devices for measuring and recording the volumetric quantity of flow through sewers.
- (26) "Monitoring" means the mechanical or other means to determine the chemical, physical and bacteriological constituents of wastewater in a sewer; synonymous with sampling, inspecting, testing, etc.
- (27) "Natural outlet" means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.
- (28) "Normal domestic wastes" means the wastewater discharging from the sanitary conveniences of dwellings, including apartment buildings, hotels, office buildings, schools, churches, institutions and/or industrial plants, which meet the discharge limitation requirements of this chapter.
- (29) "NPDES permit" means any permit or equivalent document or requirement issued by the State to regulate the discharge of pollutants pursuant to the "National Pollutant Discharge Elimination System" (NPDES) as established by the EPA.
- (30) "Operation and maintenance (O&M)" means the practical application of a method or process to keep in an existing state, or efficiently preserve from failure or decline, the existing or future treatment facilities. It includes the term "replacement" which is defined as expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment facilities to maintain the capacity and performance for which such facilities were designed and constructed.
- (31) "Person" means any individual, firm, company, association, society, corporation or group.
- (32) "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- (33) "Pretreatment" means the preliminary treatment of wastewater from the source of such wastewater before introduction into the treatment facilities.
- (34) "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
- (35) "Sanitary sewer" means a sewer intended to carry only sanitary, or sanitary and industrial, wastewaters from residences, commercial buildings, industrial plants and institutions.
- (36) "Sanitary waste" means the wastes discharged from the average residential user in the Village sewage service area. The strength of the residential waste discharge in the Village sewage service area is hereby established as 200 milligrams per liter of BOD and 250 milligrams per liter of SS and these concentrations shall be applied in determining equivalent volumes of process waste or combined discharges of sanitary and process wastes for the purposes of industrial cost recovery.
- (37) "Service charge" means the rate charged by the Village for rendering a service.
- (38) "Sewage" means a combination of water-carried wastes from residences, commercial establishments, institutions and industrial establishments, together with such ground, surface and storm water as may be present.
- (39) "Sewer" means a pipe or conduit for carrying sewage.
- (40) "Sewage collection system" means all sewers within the Village-owned collection and treatment system, which are primarily installed to receive wastewaters directly from facilities, which convey wastewater from individual structures or from private property, and which include service connection "Y" fittings designed for connection with those facilities. The facilities which convey wastewater from individual structures or from private property to the public lateral sewer, or its equivalent, are specifically excluded from this definition, with the exception of pumping units and pressurized lines, for individual structures or groups of structures when such units are cost effective and are owned and maintained by the Village.
- (41) "Sewage treatment facilities" means any arrangement of devices, structures, and systems used in the treatment of sewage, including outfall sewers, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions and alterations thereof; and any works, including site acquisition of the land that will be an integral part of the treatment process; synonymous with wastewater treatment works and/or facilities.
- (42) "Shall" is mandatory; "may" is permissive and subject to approval by the approving authority.
- (43) "Slug" means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen minutes, more than five times the average twenty-four hour concentration or flow during normal operation.
- (44) "Small commercial establishments" means those private establishments normally found in small communities, such as restaurants, hotels, stores, filling stations, recreational facilities, etc., with dry weather wastewater flows less than 25,000 gallons per day. Private nonprofit entities such as schools, churches, hospitals, charitable organizations, etc., are considered as small

commercial establishments. Commercial establishments with wastewater flow equal to or smaller than one user equivalent (generally 300 gallons per day dry weather flow) shall be treated as residences.

- (45) "Standard methods" means the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water, Sewage and Industrial Wastes", published jointly by the American Public Health Association, the American Water Works Association and the Federation of Sewage and Industrial Wastes Association.
- (46) "Surcharge" means the assessment in addition to the service charge which is levied on those persons whose wastes are greater in strength than the concentration values established as representative of normal sewage.
- (47) "Suspended solids (SS)" means solids that either float on the surface of or are in suspension in water, sewage or other liquids; and which are removable by laboratory filtering. Quantitative determination of SS shall be made in accordance with procedures set forth in "Standard Methods", Section 145.
- (48) "Tap-in" means the connection of a building sewer to a public sewer; synonymous with "connection".
- (49) "Treatment works" means any devices and system used in the storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; or any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of wastes, including storm water run-off, or industrial wastes, including waste in combined stormwater and sanitary sewer systems.
- (50) "User" means any person making direct use of the Village sewer by deliberately discharging wastewater into it.
- (51) "User charge" means a charge levied on users of a treatment facility for the cost of operation and maintenance, including replacement, of such facilities; may also mean, as a separate entity, a charge levied on users of such facilities for the purposes of debt service retirement; user charge and debt service are not synonymous.
- (52) "User charge system" means a system to assure that each recipient of wastewater treatment service pays his proportionate share of the cost of operation and maintenance, including replacement, of the wastewater treatment facilities.
- (53) "Wastewater" means any waste and water, whether treated or untreated, that is discharged into, or permitted to enter, a Village sewer.
- (54) "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently. (Ord. 1979-5. Passed 5-14-79.)

925.02 USER CHARGE SYSTEM.

- (a) The Village does hereby establish a user charge system for the purposes as described herein:
 - (1) Developing a common and equitable operation, maintenance and replacement charge, per unit of normal strength wastewater, for all users of the Village wastewater collection and treatment facilities.
 - (2) Establishing a common and equitable surcharge for extra strength wastewater based on BOD and SS discharges and characteristics of flow.
 - (3) Insuring that all users share the economies of scale and that discounts are not given for volume of contribution.
 - (4) Establishing a system that identifies and isolates, as a minimum:
 - A. Costs for treatment;
 - B. Costs for interceptor and/or collector system maintenance;
 - C. Costs for services provided;
 - D. Costs for the administration, operation and maintenance of the facilities; and
 - E. Separate and distinct elements for other charges such as debt service and local capital costs.
 - (5) Insuring that the user charge system provides sufficient revenues to offset any and all actual costs for the operation and maintenance of such facilities.
 - (6) Insuring that any other political jurisdictions within the service area of such facilities will adopt, implement and enforce the user charge system as established herein.
- (b) The Village does hereby establish that there shall be five classes of users of the Village wastewater collection and treatment facilities, as follows:
 - (1) "Domestic" means any single-family residence, or equal, user of the Village-owned wastewater collection and treatment facilities.
 - (2) "Commercial" means a class of user who normally contributes primarily segregated domestic wastes, or wastes from sanitary conveniences, into the Village-owned wastewater facilities; who contributes 25,000 gallons per day or less of sanitary waste, or a volume of process waste, or combined sanitary and process wastes, equivalent to 25,000 gallons per day of sanitary waste (see Section 925.01(a)(44)).
 - (3) "Industrial" means any nongovernmental user of the Village-owned wastewater collection and treatment facilities which discharges more than 25,000 gallons per day of sanitary waste, or a volume of process waste, or combined sanitary and process waste, equivalent to 25,000 gallons per day of sanitary waste.
 - (4) "Institutional" means a class of user who contributes primarily segregated domestic wastes, or wastes from sanitary conveniences, into the Village-owned collection and treatment facilities; generally identified as hospitals, sanitariums, prisons, etc., may be excluded from the requirements of industrial cost recovery.
 - (5) "Governmental" means a class of user who usually contributes primarily segregated domestic wastes, or wastes from sanitary conveniences, into the Village-owned wastewater collection and treatment facilities; may be excluded from the requirements of industrial cost recovery. As applied herein, a municipality is defined as a village, town, city, county, district, association or other public body (including an intermunicipal agency of two or more of the foregoing entities) created by, or pursuant to, State law, having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or a designated and approved management agency under Section 208 of the Act; excludes special districts such as school districts, which do not have as one of its principal responsibilities, the treatment, transport or disposal of liquid wastes.
- (c) The Village does hereby establish that, unless otherwise amended, added to and/ or deleted from, as provided herein, the following shall be considered as being the average residential waste discharge in the Village sewer service area: An average flow of 100 gallons per day at a loading of 200 milligrams per liter of BOD and 250 milligrams per liter of SS per capita.
- (d) The Village does hereby establish that the Village user charge system, based on actual use, shall also meet the following requirements:
 - (1) For the first year of operation under the provisions of the Federal grant, operation and maintenance charges shall be based upon past experience of the Village.
 - (2) The Village shall review annually the wastewater contribution of users and user classes, the total costs of operation and maintenance of the treatment facilities, and the Village user charge system, and annually as may be required, revise the charges for users or

user classes to accomplish the following:

- A. Maintain the proportional distribution of operation and maintenance costs among users and user classes as required herein.
 - B. Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance, including replacement of the treatment facilities.
 - C. Apply excess revenues collected from a class of users to the costs of operation and maintenance, including replacement, attributable to that class for the next year, and adjust the rate accordingly.
- (3) The user charge system hereby provides that each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge in the Village's wastewater treatment facilities shall pay for such increased costs.
 - (4) The user charge system hereby provides that the costs of operation and maintenance for all flow not directly attributable to users, i.e., infiltration/ inflow, shall be distributed among all users of the Village wastewater facilities in the same manner that it distributes the costs of operation and maintenance among users or user classes for their actual use.
 - (5) The user charge system hereby provides that the Village shall notify each user, at least annually, with a regular bill or through public notice, of the rate and that portion of the user charges which are attributable to wastewater treatment services. Public notice shall be in accordance with the laws of the State.
 - (6) The user charge system hereby disregards any terms or conditions of agreements or contracts between the Village and users, of all classes, which address the reservation of capacity in the Village's wastewater facilities or the charges to be collected by the Village in providing wastewater treatment services and which are inconsistent with the requirements of the "Act".
 - (7) The user charge system hereby requires nonresidential users of the Village wastewater treatment facilities to pay the same rate per volume of wastewater as that paid by residential users.
 - (8) The user charge system hereby requires nonresidential users of the Village wastewater treatment facilities to comply with the requirements of this chapter, as those requirements apply to residential users.

(Ord. 1979-5. Passed 5-14-79.)

925.03 INDUSTRIAL COST RECOVERY SYSTEM.

(a) The Village does hereby establish an industrial cost recovery system for the purpose of recovering, by the Village, from industrial users of the Village wastewater treatment facilities, each industrial user's share of the Federal grant amount allocable to the treatment of waste from such users; and from commercial users of individual systems, each such user's share of the Federal grant amount allocable to the treatment of waste from such user.

(b) The strength of the average residential waste discharge, having been established in Section 925.02(c), shall be applied in determining equivalent volumes of process waste or combined discharges of sanitary and process wastes for the purposes of industrial cost recovery.

(c) The Approving Authority of the Village shall determine the identity of industrial users of the Village wastewater treatment facilities by:

- (1) Conducting, initially and on an annual basis, a review of the accounts of Village water users whose metered water supply records indicate that 25,000 gallons per day, or more, of water is drawn by such user.
- (2) Inspection, observation, measurement, sampling, and testing, initially and on an annual basis, determine the volumes of flow and equivalent volumes of process waste or combined discharges of sanitary and process waste contribution of such industrial users.

(d) Those persons determined to be industrial users, under the provisions of these regulations, shall be required to participate in the industrial cost recovery program.

(e) The Village industrial cost recovery program shall be in full force and effect for a period equal to thirty years or to the useful life of the treatment facilities, whichever is less.

(f) Except as otherwise provided by the Act, those industries required to participate in the Village's industrial cost recovery program shall be required to make payment to such program no less often than annually. The first payment by an industrial user shall be made not later than one year after the user begins use of the treatment facilities.

(g) Those industrial users entering into an agreement with the Village to reserve a certain capacity in the treatment facilities, shall make industrial cost recovery payments based on the total reserved capacity in relation to the design capacity of such facilities. If the discharge of an industrial user exceeds the reserved capacity in volume, strength or delivery flow rate characteristics, the user's industrial cost recovery payment shall be increased to reflect the actual use of the treatment facilities. If there is no agreement between the industrial user and the Village regarding reserve capacity, and there is a substantial change in the strength, volume or delivery flow rate characteristics of an industrial user's discharge, such user's share shall be adjusted proportionately.

(h) If there is an upgrading of the treatment facilities, each existing industrial user's share shall be adjusted proportionately.

(i) If there is an expansion of the treatment facilities, each industrial user's share shall be adjusted proportionately, except that a user with reserved capacity under subsection (g) hereof, shall incur no additional industrial cost recovery charge unless the user's actual use exceeds its reserved capacity.

(j) The basis of design for each unit operation and the cost identified with each unit of operation shall form the basis of the industrial cost recovery charges. The major unit operation and basis of design are identified as:

Design Parameter	Process Unit(s)
Flow	Grit chamber - chlorination - flow cascade - effluent pumps
Solids	Comminution - sludge pumping - digesters
Solids identified as grit	Grit conveyor and handling
Flow and solids	Primary setting
Organic and nitrogen loading	RBC tanks and aeration equipment
Flow and phosphate removal	Tertiary sand filters - secondary setting
Flows, solids and organics	Control building laboratory

The remaining capital expenditures not identified under a major unit process shall be proportioned in the same ratios as the totals for the major unit processes. The industries' industrial cost recovery charge shall then be calculated on the basis of its contribution of each of the three design parameters (flow, BOD and SS) multiplied by the parameter's unit cost. Such calculations supportive of the industrial cost recovery charge shall be filed at the office of the Mayor.

(Ord. 1979-5. Passed 5-14-79.)

925.04 SEWER REVENUE FUND.

The funds received from the collection of rates and charges established by the Village shall be deposited, as received, with the Clerk-Treasurer, who shall keep the same in a separate fund designated "Sewer Revenue Fund". Subject to the provisions of any ordinance or indenture of mortgage authorizing the issuance of and securing mortgage revenue bonds for the wastewater collection and treatment facilities, moneys in the Sewer Revenue Fund shall be used for the payment of the cost and expense of operation, maintenance, replacement, repair, administration and management of such facilities and for the payment of debt charges on bonds issued for extensions and improvements of such facilities. Any surplus in the Sewer Revenue Fund over and above the requirements heretofore mentioned may be used for upgrading, expansion or any replacements to the facilities and parts thereof.

(Ord. 1979-5. Passed 5-14-79.)

925.05 USE OF PUBLIC SEWERS REQUIRED.

(a) No person shall place, deposit or permit to be deposited in any unsanitary manner, on public or private property within the Village or in any area under the jurisdiction of the Village, any human or animal excrement, garbage or objectionable waste.

(b) No person shall discharge to any natural outlet within the Village, or in any area under the jurisdiction of the Village, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this chapter.

(c) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

(d) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the Village and abutting on any street, alley or right of way in which there is now located, or may in the future be located, a public sanitary or combined sewer of the Village, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within ninety days after date of official notice to do so, provided that the nearest boundary of the right of way of the public sewer is within 200 feet of the foundation wall of the structure from which sewage or other waste originates.

(Ord. 1979-5. Passed 5-14-79.)

925.06 PRIVATE WASTEWATER DISPOSAL.

(a) Where a public sanitary or combined sewer is not available under the provisions of this chapter, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(b) Before commencement of the construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the approving authority. The application for such permit shall be made on a form furnished by the Village, which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the approving authority. A permit and inspection fee as established in Section 925.07 shall be paid to the Village at the time the application is filed.

(c) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the approving authority. The approving authority shall be allowed to inspect the work at any stage of construction, and the applicant for the permit shall notify such authority when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within twenty-four hours of the receipt of notice by the approving authority.

(d) The type, capacity, location and layout of a private wastewater disposal system shall comply with all requirements of the Department of Health of the Village, County or State, as applicable. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than one acre. No septic tank shall be permitted to discharge to any natural outlet.

(e) At such time as a public sewer becomes available to a property owner served by a private wastewater disposal system, as provided herein, a direct connection shall be made to the public sewer within 180 days of receipt of notice from the Village, and any septic tanks or similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

(f) The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Village. Sludge removal from private wastewater disposal systems shall be performed by licensed sludge removal operators, and shall be disposed of in accordance with the provisions of the operator's license.

(g) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Village Health Officer.

(Ord. 1979-5. Passed 5-14-79.)

925.07 BUILDING SEWERS AND CONNECTIONS.

(a) No unauthorized person shall uncover, make any connections with, or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the approving authority.

(Ord. 1979-5. Passed 5-14-79.)

(b) There shall be one class of building sewer permits. The owner, or his agent, shall make application on a special form furnished by the Village of Carrollton. The permit application shall be supplemented by any plans, specifications, or other information considered necessary by the approving authority. A permit and inspection fee of: twenty-five dollars (\$25.00) for all sewers, shall be paid to the Village at the time of application.

(Ord. 2007-12. Passed 4-23-07.)

(c) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner.

(d) The owner shall indemnify the Village for any loss or damage that may directly, or indirectly, be occasioned by the Village by the installation of the building sewer.

(e) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building sewer may be extended to the rear building and the whole considered as one building sewer, but the Village does not, and shall not, assume any obligation or responsibility for damage caused by, or resulting from, any such single connection aforementioned.

(f) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the approving authority to meet all of the requirements of this chapter.

(g) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Village building and plumbing code or other applicable rules and regulations of the Village. In the absence of such provisions, or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Pollution Control Federation (WPCF) Manual of Practice Number 9 shall apply.

(h) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an

approved means and discharged to the building sewer.

(i) No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the approving authority for purposes of disposal of polluted surface drainage.

(j) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Village, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice Number 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials shall be approved by the approving authority before installation.

(k) The applicant for the building sewer permit shall notify the approving authority when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the approving authority.

(l) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the approving authority.

(Ord. 1979-5. Passed 5-14-79.)

925.08 USE OF PUBLIC SEWERS RESTRICTED.

(a) No person shall discharge, or cause to be discharged, any unpolluted waters, such as stormwater, groundwater, roof runoff, subsurface drainage, or cooling water to any sanitary sewer.

(b) Stormwater, groundwater, roof runoff, subsurface drainage, cooling water and other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or combined sewers, or to a natural outlet approved by the approving authority of the Village and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged to storm sewers, combined sewers or natural outlets upon the approval of the approving authority.

(c) The following described substances, materials, waters or wastes shall be limited in discharges to the Village wastewater systems to concentrations or quantities which will not endanger lives, limb, public property; will not harm either the sewers, treatment process or equipment; will not have an adverse effect on the receiving stream; or otherwise constitute a nuisance. The approving authority of the Village may set limitations lower than the limitations established herein, if in its opinion such more severe limitations are necessary to meet the required objectives. In forming its opinion as to the acceptability, the approving authority will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment facility, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer, which shall not be violated without approval of the approving authority, are as follows:

(1) Wastewater having a temperature higher than 180 degrees Fahrenheit.

(2) Wastewater containing petroleum oil, nonbiodegradable cutting oils or products of mineral oil origin.

(3) Wastewater from industrial plants containing floatable oils, fats or grease.

(4) Any garbage that has not been properly ground and/or shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption.

(5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the treatment facilities exceeds the limits established by the approving authority for such materials.

(6) Any waters or wastes containing odor producing substances exceeding limits which may be established by the approving authority.

(7) Any radioactive wastes or isotopes of such half life or concentration as may exceed limits established by the approving authority in compliance with applicable State or Federal regulations.

(8) Quantities of flow, concentrations, or both, which constitute a slug.

(9) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(10) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.

(d) If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in this section, and which in the judgment of the approving authority may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the approving authority may:

(1) Reject the wastes; or

(2) Require pretreatment to an acceptable condition for discharge to the public sewers; or

(3) Require control over the quantities and rates of discharge; and/or

(4) Require payment to cover added costs of handling and treating the wastes not covered by existing taxes or sewer charges.

When considering the above alternatives, the approving authority shall give consideration to the economic impact of each alternative on the discharger. If the approving authority permits the pretreatment or equalization of waste flows, the design and installation of the plant and equipment shall be subject to the review and approval of the approving authority.

(e) Grease, oil and sand traps shall be provided when, in the opinion of the approving authority, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such traps shall not be required for private living quarters or dwelling units. All traps shall be of a type and capacity approved by the approving authority, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these traps, the owner shall be responsible for the proper removal and disposal by appropriate means, of the captured material and shall maintain records of the dates, and means of disposal, which are subject to review by the approving authority. Any removal and hauling of the collected materials not performed by owner personnel shall be performed by currently licensed waste disposal firms.

(f) Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(g) When required by the approving authority, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, together with such necessary meters and other appurtenances in the building sewer, to facilitate observation, sampling and measurement of the wastes. Such structure, when required, shall be accessibly and safely located and shall be constructed in accordance with

plans approved by the approving authority. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

(h) The approving authority may require a user of sewer services to provide information needed to determine compliance with this chapter, which may include, but not be limited to:

- (1) Wastewater discharge peak rate and volume over a specified period of time.
- (2) Chemical analysis of the wastewaters.
- (3) Information on raw materials, processes and products affecting the wastewater volume and quality.
- (4) Quantity and disposition of specific liquid sludge, oil, solvent or other materials important to sewer use control.
- (5) A plot plan of sewers on the user's property, showing sewer and pretreatment facility location.
- (6) Details of wastewater pretreatment facilities.
- (7) Details of systems to prevent and control the losses of materials through spills to the public sewers.

(i) All measurements, tests and analysis of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with "Standard Methods", Section 145. Sampling methods, locations, times, durations, and frequencies are to be determined on an individual basis, subject to approval by the approving authority.

(j) Except as hereinafter provided, no person shall discharge into the Village sewers:

- (1) Any solids, liquid or gases which by themselves or by interaction with other substances, may cause fire or explosion, or in any other way be injurious to persons, property or the operation of the sewage treatment facilities.
- (2) Any noxious, or malodorous solids, liquids or gases which either singly or by interaction with other substances, is capable of creating a public nuisance or hazard to life, or preventing entry into sewers for their maintenance and repair.
- (3) Any solids, greases, slurries or viscous material of such character or in such quantity that, in the opinion of the approving authority may cause an obstruction to the flow in the sewer or otherwise interfere with the proper functioning of the sewage system.
- (4) Any toxic substances, chemical elements or compounds in quantities sufficient to impair the operation or efficiency of the wastewater treatment facilities, or that will pass through such facilities and cause the effluent thereof to exceed state or interstate water quality requirements for the receiving waters.
- (5) Any liquids having a pH lower than 6 or higher than 9, or having any corrosive property capable of causing damage or hazards to structures, equipment or personnel of the sewage disposal facilities.
- (6) Any radioactive isotopes without obtaining a special permit from the approving authority.
- (7) Any liquid or vapor having a temperature greater than 180 degrees Fahrenheit.
- (8) Any garbage that has not been ground or shredded.

(k) No statement contained in this section shall be construed as prohibiting any special agreement or arrangement between the Village and any person whereby an industrial waste of unusual strength or character may be admitted to the wastewater treatment facilities, either before or after pretreatment, provided that there is no impairment of the functioning of such facilities by reason of the admission of such wastes, and no extra costs are incurred by the Village without recompense by the person.

(Ord. 1979-5. Passed 5-14-79.)

925.09 ADMISSION OF INDUSTRIAL WASTES INTO PUBLIC SEWERS.

(a) Review and acceptance of the approving authority shall be obtained prior to the discharge into the public sewers of any industrial waters or wastes having a five day twenty degrees Centigrade BOD content greater than 200 milligrams per liter or a suspended solids content greater than 250 milligrams per liter.

(b) Where required in the opinion of the approving authority, to modify or eliminate wastes that are harmful to the structures, processes or operation of the wastewater treatment facilities, the person contributing such wastes shall provide, at his expense, such preliminary treatment or processing facilities as may be determined necessary to render such wastes acceptable for admission to the Village sewers.

(c) Plans, specifications and any other pertinent information relating to proposed preliminary treatment or processing facilities shall be submitted for approval by the approving authority prior to the start of construction, if the effluent from such facilities is to be discharged into the public sewer.

(d) No person shall cause the discharge of slugs of water or wastes into the Village sewers. Each person producing such discharge into the Village sewers shall construct and maintain, at his own expense, a suitable storage and flow control facility to insure equalization of discharge over a twenty-four hour period. This facility shall have a capacity as shall be agreed upon by the approving authority and the person, and the outlet to the public sewer shall be equipped with a rate discharge controller or other approved device, the regulation of which shall be directed by the approving authority.

(Ord. 1979-5. Passed 5-14-79.)

925.10 CONTROL OF ADMISSIBLE WASTES.

(a) Each person who discharges industrial wastes to a Village sewer shall, within sixty days of receipt of official notice by the approving authority, prepare and file with the approving authority, a report that shall include pertinent data relating to the quantity and characteristics of the wastes discharged to the Village wastewater treatment facilities. Similarly, each person desiring to make a new connection to the public sewer for the purpose of discharging industrial wastes shall prepare and file with the approving authority, a report that shall include actual or predicted data relative to the quantity and characteristics of the waste to be discharged.

(b) When it can be demonstrated that circumstances exist which would create an unreasonable burden on the person to comply with the above time schedule, a request for extension of time may be presented for consideration by the approving authority who may, if warranted, issue an extension of time.

(c) Each person discharging industrial wastes into a public sewer shall construct and maintain one or more control manholes or access points to facilitate observation, measurement and sampling of his wastes, including domestic sewage. Control manholes or access facilities shall be located and built in a manner acceptable to the approving authority. If measuring devices are to be permanently installed, they shall be of a type acceptable to the approving authority. Control manholes, access facilities and related equipment shall be installed by the person discharging the waste, at his expense, and shall be maintained by such person so as to be in safe condition, accessible and in proper operating condition at all times. Plans for the installation of the control manhole or access facilities and related equipment shall be approved by the approving authority prior to beginning construction.

(d) The volume of flow used for computing industrial waste surcharges shall be the metered water consumption of the person as shown in the record of meter readings maintained by the Village. If the person discharging industrial wastes into the public sewers procures any part, or all, of his water from sources other than the Village, all or a part of which is discharged into the Village sewers, the person shall install and maintain at his expense, water meters of a type approved by the approving authority for the purpose of determining the volume of water obtained from these other sources.

(e) Devices for measuring the volume of waste discharged to the public sewer may be required by the approving authority if these volumes

cannot otherwise be determined from the metered water consumption records of the Village. Metering devices for determining the volume of waste shall be installed, owned and maintained by the person, at his expense. Following approval for the installation of such devices, and installation, such devices may not be removed without the consent of the approving authority.

(f) Industrial wastes discharged into the Village sewers shall be subject to periodic inspection and a determination of character and concentration of such wastes. The determinations shall be made as often as may be deemed necessary by the approving authority. Samples shall be collected in such a manner as to be representative of the composition of the wastes. The sampling may be accomplished either manually or by the use of mechanical equipment acceptable to the approving authority. Installation, operation and maintenance of the sampling facilities shall be the responsibility of the person discharging the waste and shall be subject to the approval of the approving authority. Access to sampling locations shall be granted to the approving authority or its duly authorized representatives at all times. Every care shall be exercised in the collection of samples to insure their preservation in a state comparable to that at the time the sample was taken.

(g) Laboratory procedures used in the examination of industrial wastes shall be those set forth in "Standard Methods", Section 145. However, alternate methods for certain analysis of industrial wastes may be used subject to mutual agreement between the approving authority and the person. Determination of the character and concentration of the industrial wastes shall be made by the person discharging them, or his agent, as designated by the approving authority. The Village may also make its own analysis of the wastes and these determinations shall be binding as a basis for charges.

(Ord. 1979-5. Passed 5-14-79.)

925.11 INDUSTRIAL WASTE SURCHARGES.

(a) All persons discharging industrial wastes into the Village sewers shall be subjected to a surcharge, in addition to any other sewer service charges, if those wastes have a concentration greater than the concentrations established in Section 925.02(c). The amount of surcharge shall reflect the cost incurred by the Village in removing the excess BOD and SS. This surcharge shall include a proportionate share of the overall fixed charges for the wastewater treatment facilities based upon an average useful life of thirty years, or at the end of major construction periods, whichever is shorter; and the annual cost of operation and maintenance of the treatment facilities.

(b) The excess pounds of BOD and SS shall be computed by multiplying the person's sewage flow volume in million gallons per day by the constant 8.345 and then multiplying this product by the difference between the person's concentrations of BOD and SS and the concentrations established in Section 925.02(c) in milligrams per liter. The surcharge for each constituent shall then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge listed in subsection (c) hereof. This product will then be multiplied by the number of days in the billing period to determine the surcharge. Concentration figures in the above calculations shall be daily averages determined in accordance with the provisions of Section 925.10.

(c) The rates of surcharge for each of the aforementioned constituents shall be as follows:

- (1) For biochemical oxygen demand (BOD), eleven cents (11¢) per pound;
- (2) For suspended solids (SS), thirteen cents (13¢) per pound.

(d) The rates of surcharge shall be reviewed annually by the approving authority to determine whether or not they are sufficient to defray the fixed charges, amortization costs, and annual cost of operation and maintenance, including replacement, as determined from the wastewater treatment facilities records. If the difference between the revenue derived from the rates of surcharge and the total annual cost is sufficient to justify an increase or decrease in the rates, the approving authority shall make such recommendation as is appropriate to Council.

(Ord. 1979-5. Passed 5-14-79.)

925.12 RULES AND REGULATIONS.

The approving authority shall make and enforce such rules and regulations as may be deemed necessary for the enforcement of the provisions hereof, for the proper determination and collection of the rates and charges, and for the safe, efficient and economical management of the Village wastewater collection and treatment facilities. Such rules and regulations, when not repugnant to existing ordinances of the Village, or laws of the State, shall have the same force and effect as ordinances of Council.

(Ord. 1979-5. Passed 5-14-79.)

925.13 REMEDIES FOR NONPAYMENT.

(a) Such charges and surcharges levied in accordance with the requirements of this chapter shall be a debt due to the Village and shall be a lien upon the property. If this debt is not paid to the Village within thirty days after it shall be due and payable, it shall be deemed delinquent and may be recovered by civil action in the name of the Village against the property owner, the person, or both.

(b) In the event of failure to pay such charges or surcharges after they become delinquent, the Village shall have the right to discontinue water service, or to remove or close sewer connections and enter upon the property for accomplishing such purposes. The expense of such discontinuance, removal or closing, as well as the expense of restoring service, shall likewise be a debt due to the Village and a lien upon the property and may be recovered by civil action in the name of the Village against the property owner, the person, or both.

(c) Water or sewer service shall not be restored until all charges, including the expense of removal, closing and restoration, shall have been paid by the person to the Village.

(d) Change of ownership or occupancy of the premises found delinquent shall not be cause for reducing or eliminating the penalties established herein.

(Ord. 1979-5. Passed 5-14-79.)

925.14 PROTECTION FROM DAMAGE.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater collection and treatment facilities. Whoever violates this section shall be subject to immediate arrest under the charge of misdemeanor.

(Ord. 1979-5. Passed 5-14-79.)

925.15 POWERS AND AUTHORITY.

(a) The approving authority and other duly authorized employees of the Village bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the Village wastewater facilities in accordance with the provisions of this chapter.

(b) The approving authority or other duly authorized employees of the Village bearing proper credentials and identification are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater facilities. The industry may withhold information considered confidential if the industry can establish that the revelation to the public of the information in question might result in an advantage to competitors.

(c) While performing official work on private properties, the approving authority or other duly authorized employees of the Village shall observe all safety rules applicable to the premises established by the person, and the person shall be held harmless for injury or death to the Village employees, and the Village shall indemnify the person against loss or damage to such property by Village employees and against liability

claims and demands for personal injury or property damage asserted against the person and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the person to maintain safe conditions as required herein.

(d) The approving authority and other duly authorized employees of the Village bearing proper credentials and identification shall be permitted to enter all private properties through which the Village holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within such easement. All entry and subsequent work, if any, on such easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Ord. 1979-5. Passed 5-14-79.)

925.16 APPEALS.

(a) All disputes or disagreements arising out of the establishment of the rules and regulations promulgated by this chapter shall be presented to the approving authority for resolution in accordance with the laws of the State.

(b) Such disputes or disagreements shall be filed in writing with the approving authority within thirty days of such dispute or disagreement.

(c) The approving authority shall maintain a record of proceedings, including original papers, testimony and evidence offered, heard and taken into consideration, and actions taken by the approving authority.

(d) The findings of the approving authority shall be final but may be reviewed by Council.

(e) The costs of administering, maintaining and operating such appeals action shall be included as a cost of the operation and maintenance of the wastewater treatment facilities.

(f) All proceedings of the approving authority regarding appeals as stated herein shall be governed by applicable laws regulating appeals boards.

(Ord. 1979-5. Passed 5-14-79.)

925.17 MONTHLY ASSESSMENT FOR STORM SEWER USE.

An assessment of two dollars (\$2.00) shall be added to the billings of each sewer account per month effective January 02, 2004, and shall be reflected on each account on the first billing as authorized by law and shall continue until order of the Council of the Village of Carrollton. (Ord. 2003-29. Passed 12-22-03.)

925.99 PENALTY.

(a) Whoever violates any provision of this chapter, except Section 925.14, shall be served by the Village with written notice stating the nature of the violation and provided with a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Whoever continues any violation beyond the time limit provided in subsection (a) hereof, shall be guilty of a minor misdemeanor, and shall be fined one hundred dollars (\$100.00). Each day in which such violation shall continue shall be deemed a separate offense.

(c) Whoever violates any of the provisions of this chapter shall become liable to the Village for any expense, loss or damage occasioned the Village by reason of such violation.

(Ord. 1979-5. Passed 5-14-79.)

TITLE FIVE - Other Public Services

Chap. 941. Garbage and Rubbish Collection.

CHAPTER 941

Garbage and Rubbish Collection

941.01 Definitions.

941.02 Accumulation of garbage and other refuse.

941.03 Permits.

941.04 Disposal of garbage and refuse.

941.05 Service charge.

941.06 Duties of contractor.

CROSS REFERENCES

Collection and disposal of garbage - see Ohio R.C. 715.43, 717.01

Employment of scavengers - see Ohio R.C. 3707.39

Vehicle loads dropping, sifting, leaking - see TRAF. 339.08

Littering - see GEN. OFF. 521.08

Open burning - see FIRE PREV. Ch. 1511

941.01 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply:

(a) "Garbage" means all putrescible wastes, (except human excreta, sewage and other water carried wastes and recognizable industrial by-products), including vegetables and animal offal, carcasses of dead animals and all such substances from all public and private establishments and from all residences.

(b) "Other refuse" means ashes, glass, crockery, tin cans, paper, boxes, rags and old clothing and all other similar non-putrescible wastes. The term shall not include tree limbs or any materials such as earth, sand, brick, stone, concrete, plaster or other similar substances that may accumulate as a result of construction operations.

(c) "Householder" means the head of a facility or one maintaining separate living quarters and shall include owners, tenants and occupants of all premises where garbage or other refuse or both is or are created. Nothing in this definition shall be construed to apply to commercial operators as hereinafter defined.

(d) "Premises" means land or buildings or both, or parts of either or both, occupied by a householder or commercial operator.

(e) "Commercial operator" means all persons, firms or corporations who own or operate stores, restaurants, industries, institutions and other similar places, public or private, charitable or non-charitable, and include all responsible persons other than householders, upon the premises of which garbage or other refuse or both is or are created. (Ord. 1997-10. Passed 7-28-97.)

941.02 ACCUMULATION OF GARBAGE AND OTHER REFUSE.

(a) No householder or commercial operator shall permit to be accumulated upon his premises any garbage or other refuse except in approved containers.

(b) All garbage shall be kept in rust-resistant, water tight, non-absorbent, rodent resistant, washable containers or plastic bags. Containers shall

not exceed thirty gallons in capacity and shall have two handles, a carrying bail and must be sealed or tied shut.

(c) All other refuse shall be placed in substantial containers not subject to disintegration by moisture. Such containers shall be of adequate capacity and provided in sufficient number to satisfactorily hold all other refuse that accumulates between collections. Insofar as practicable boxes, papers and similar odd articles shall be crushed and bundled in lengths not to exceed three feet and not to exceed fifty pounds in weight.

(d) No householder or commercial operator may dispose of garbage in any other manner than the foregoing except by the use of a garbage disposal unit which trends and discharges garbage direct to the sanitary sewer. No other refuse may be burned in the container in which said refuse is placed for removal. (Ord. 1997-10. Passed 7-28-97.)

941.03 PERMITS.

(a) No person, firm, corporation, except the holder of a permit issued by the Mayor, shall commercially collect or transport garbage or other refuse within the Village. Said permit shall be issued only after the Mayor has duly satisfied himself that the permittee is capable of complying with the requirements of this chapter. Permits shall be issued only to persons, firms or corporations equipped with sanitary, leak-proof and easily cleaned vehicles. Leakage and spillage from vehicles transporting garbage and other refuse shall not be permitted.

(b) Such permit shall be in the form of a contract executed on behalf of the Village by the Mayor and Clerk, and approved by the Council. It shall also be executed at any time. The contract shall be for a term of five years with the option or renew for a similar period of five years, if mutually satisfactory to the Village and the Contractor. Such permit shall constitute an exclusive franchise between the Village and Contractor. (Ord. 1997-10. Passed 7-28-97.)

941.04 DISPOSAL OF GARBAGE AND REFUSE.

(a) Approved disposal of all garbage and refuse shall be by some form of the sanitary land-fill method.

(b) All junk and other materials on the disposal sites shall become the property of the collecting agency to whom the permit for collections has been issued, and no person is to be permitted to separate, collect or carry away from the dump or otherwise dispose of same except under the direction of the permit holder. (Ord. 1997-10. Passed 7-28-97.)

941.05 SERVICE CHARGE.

(a) Residents within the Carrollton Corporation limits: the rate of charge to each householder shall be as specified in the Refuse Collection Contract.

(b) The rate of charge to each commercial operator, as defined in Section 941.01 for collection and disposal of garbage and other refuse, shall be on a quantity basis. The charge to be paid by the commercial operator shall be such as the commercial operator and the contractor consider reasonable in view of the quantity to be hauled and the collection schedule. If the commercial operator and the contractor are not able to agree upon the charge, the matter may be referred by the parties to the Village Engineer, if any; and if the Village does not have an Engineer at the time, the matter may be referred to Council. The decision shall be final and shall be binding on the parties.

(c) The charge for industrial by-products and wastes delivered to the disposal site furnished by the contractor shall be such as is mutually agreeable to the industry and contractor.

(d) All charges for collection of garbage and other refuse shall be payable quarterly. The contractor shall collect the charge from all customers and shall upon request, furnish invoices and receipts to commercial operators and receipts to householders.

(Ord. 1997-10. Passed 7-28-97.)

941.06 DUTIES OF CONTRACTOR.

(a) The contractor shall employ reliable and competent help, render efficient and prompt service and provide supervisory inspection of pickup stations at regular intervals.

(b) The contractor shall use the sanitary land-fill method of disposal of all garbage and refuse collected on premises owned by the Village of Carrollton at his own expense.

(c) The contractor shall furnish a performance bond in the amount of ten thousand dollars (\$10,000) in favor of the Village of Carrollton, Ohio, conditioned upon the faithful performance of the contract.

(d) The contractor shall carry property damage insurance for not less than twenty-five thousand dollars (\$25,000) and personal liability for not less than one hundred thousand dollars (\$100,000) on all vehicles used by the contractor in the performance of the contract.

(Ord. 1997-10. Passed 7-28-97.)

CODIFIED ORDINANCES OF CARROLLTON

PART ELEVEN - PLANNING AND ZONING CODE

TITLE ONE - Subdivision Regulations

- Chap. 1101. Definitions.
- Chap. 1103. Enforcement, Jurisdiction and Penalty.
- Chap. 1105. Preliminary Plat.
- Chap. 1107. Final Plat.
- Chap. 1109. Improvements.
- Chap. 1111. Design Standards.
- Chap. 1113. Variances and Exceptions.
- Appendix

TITLE THREE - Zoning Administration

- Chap. 1121. Definitions.
- Chap. 1123. Title, Interpretation and Validity.
- Chap. 1125. Enforcement and Penalty.
- Chap. 1127. Permits, Certificates and Fees.
- Chap. 1129. Board of Zoning Appeals.
- Chap. 1131. Zoning District Map.
- Chap. 1133. Amendments.

TITLE FIVE - Zoning Districts

- Chap. 1141. Districts Generally.
- Chap. 1143. RU Rural District.
- Chap. 1145. RC Conservation District.
- Chap. 1147. RS-1, RS-2 and RS-3 Residential Districts.
- Chap. 1149. RD Residential District.
- Chap. 1151. RA Residential District.

- Chap. 1153. B-1 General Business District.
- Chap. 1155. B-2 Highway Business District.
- Chap. 1157. B-3 Central Business District.
- Chap. 1159. I Industrial District.

TITLE SEVEN - Zoning Standards and Special Provisions

- Chap. 1171. Supplementary District Regulations.
- Chap. 1173. Height Regulations.
- Chap. 1175. Yard Regulations.
- Chap. 1177. Density Regulations.
- Chap. 1179. Off-Street Parking and Loading.
- Chap. 1181. Accessory Buildings and Uses.
- Chap. 1183. Fences.
- Chap. 1185. Large-Scale Residential Developments.
- Chap. 1187. Manufactured Homes.
- Chap. 1189. Signs.
- Chap. 1191. Nonconforming Uses.

CODIFIED ORDINANCES OF CARROLLTON PART ELEVEN - PLANNING AND ZONING CODE TITLE ONE - Subdivision Regulations

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 - Chap. 1113. Variances and Exceptions.
- Appendix

CHAPTER 1101

Definitions

1101.01 Definitions.

CROSS REFERENCES

Zoning Ordinance definitions - see P. & Z. Ch. 1121
 Fence definitions - see P. & Z. 1183.03
 Sign definitions - see P. & Z. 1189.02

1101.01 DEFINITIONS.

(a) Certain words and phrases as used or found in these Subdivision Regulations are defined, for the purpose of these Regulations, as hereafter set forth in this chapter.

- (1) "Board of Public Affairs" means the Board of Public Affairs of the Village of Carrollton.
- (2) "Building setback line" means a line established in the Zoning Ordinance, generally parallel to a street delineating the minimum allowable distance between the street right-of-way and the front of a structure.
- (3) "Clerk" means the Clerk-Treasurer of the Village of Carrollton.
- (4) "Commission" means the Planning Commission of the Village of Carrollton.
- (5) "Council" means the Council of the Village of Carrollton.
- (6) "Easement" means a grant by the property owner, or owners, of the use of a strip of land for a specific purpose or purposes.
- (7) "Engineer" means the Engineer of the Village of Carrollton.
- (8) "Final plat" means the drawing of all or a portion of a subdivision which is submitted to Council and the Planning Commission for action in accordance with Chapter 1107.
- (9) "Improvements" means any addition to the natural state of land which increases its value or utility, including buildings, street pavements, with or without curb and gutter, sidewalks, crosswalks, water mains, sanitary sewers, storm sewers, street trees, street lighting, public utilities and other appropriate items.
- (10) "Lot" means a portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for building development, together with the required open spaces and having frontage on a public street.
- (11) "Other pertinent terms" means as defined in the Zoning Ordinance of the Village of Carrollton.
- (12) "Park and open space plan" means the plan of parks, playgrounds or other open public grounds adopted by the Planning Commission.
- (13) "Plat" means a map of a tract or parcel of land made by a licensed land surveyor.
- (14) "Preliminary plat" means the drawing indicating the proposed layout of a subdivision which is submitted to the Planning Commission in accordance with Chapter 1105.
- (15) "Right-of-way" means the strip of land lying between property lines of a street; also a parkway, alley or easement dedicated or otherwise acquired for use by the public.
- (16) "Roadway" means the portion of a street available for vehicular traffic.
- (17) "Sidewalk" means a paved area intended principally for use of pedestrians.
- (18) "Street" means, for the purpose of this chapter, any avenue, boulevard, road, lane, parkway, alley or other way for vehicular and/or pedestrian traffic shown upon a plat duly approved, filed, and recorded in the office of the County Recorder, shall be known as a street. It includes the land between the street boundary lines, whether improved or unimproved. Streets shall be classified as follows:
 - A. "Freeway" means a divided multi-lane highway for through traffic with all crossroads separated in grade and with full control of access.
 - B. "Primary street" means a street which carries vehicular traffic of a State or Federal highway route.

- C. "Secondary street or collector street primarily used for fast and heavy traffic" means a street which carries or is expected to carry large amounts of vehicular traffic usually not of origin or destination primarily in the properties abutting upon the street. A street intended to serve and to provide access to neighborhoods or subneighborhoods.
- D. "Minor streets" means one which carries or is designed to carry vehicular traffic usually originating or terminating in properties abutting the street.
- E. "Industrial street" means one which is designed to carry heavy vehicular traffic primarily serving industrial establishments.
- F. "Private street" means a strip of privately-owned land providing access to abutting properties.
- G. "Cul-de-sac" means a minor street having only one end open for motor traffic, the other end being permanently terminated by vehicular turnaround.
- H. "Service road" means a street parallel to a limited access highway to afford abutting property owners access to such highway, but only at specific points.
- (19) "Street line" means the boundary line (sometimes referred to as the property line) between a lot and the area dedicated or otherwise acquired for street purposes.
- (20) "Street plan" means the official plan of major streets adopted by the Planning Commission.
- (21) "Subdivision" means the division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two or more parcels, sites, or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the division or partition of land into parcels of more than five acres not involving any new streets or easements of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites and where the lots resulting are not reduced below minimum sizes required by law, shall be exempted; or the improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any street or streets; except private streets serving industrial structures; the division or allocation of land as open spaces for common use by owners, occupants or leaseholders or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities.
- (22) "Walkway" means a dedicated public right-of-way limited to pedestrian traffic.
- (23) "Zoning" means regulations and limitations, by districts, of the height, bulk and location, including percentage of lot occupancy, building setback lines, and area and dimensions of yards, courts and other open spaces, and the uses of buildings and other structures and of the premises in such districts. (Ord. 1973-10. Passed 1-8-74.)

CHAPTER 1103

Enforcement, Jurisdiction and Penalty

- 1103.01 Plat approval required.**
- 1103.02 Restriction on issuance of building or repair permits.**
- 1103.03 Restriction on public improvement.**
- 1103.04 Jurisdiction.**
- 1103.05 Amendments.**
- 1103.06 Conflict; effective date.**
- 1103.07 Severability.**
- 1103.99 Penalty.**

CROSS REFERENCES

Preliminary plats - see P. & Z. Ch. 1105
Approval without plat - see P. & Z. 1105.11
Policy on public improvements - see P. & Z. 1105.14
Final plats - see P. & Z. Ch. 1107
Improvements - see P. & Z. Ch. 1109

1103.01 PLAT APPROVAL REQUIRED.

No plat of any subdivision shall be entitled to be recorded in the County Recorder's Office or have any validity until it shall have been approved in the manner prescribed herein by ordinance of Council. (Ord. 1973-10. Passed 1-8-74.)

1103.02 RESTRICTION ON ISSUANCE OF BUILDING OR REPAIR PERMITS.

No building or repair permits shall be issued for any structure located on a lot in any subdivision plat which has been prepared after the date of the adoption of these Subdivision Regulations which has not been approved in accordance with the provisions contained herein. (Ord. 1973-10. Passed 1-8-74.)

1103.03 RESTRICTION ON PUBLIC IMPROVEMENT.

Council shall not permit any public improvements over which it has any control to be made or any money expended for improvements in any area that has been subdivided or upon any street that has been platted after the date of the adoption of these Subdivision Regulations, unless such subdivision or street has been approved in accordance with the provisions contained herein.

(Ord. 1973-10. Passed 1-8-74.)

1103.04 JURISDICTION.

The rules and regulations governing plats and subdivisions of land contained herein shall apply within the corporate limits of the Village. (Ord. 1973-10. Passed 1-8-74.)

1103.05 AMENDMENTS.

Council may, after public hearing, amend, supplement or change these Regulations. Notice shall be given of the time and place of such public hearing by publication in at least one newspaper of general circulation published in the local area, thirty days prior to holding of such hearing. The amendment or amendments shall be on file in the office of the Planning Commission for public examination during such thirty days.

(Ord. 1973-10. Passed 1-8-74.)

1103.06 CONFLICT; EFFECTIVE DATE.

- (a) Any ordinances or parts of ordinances in conflict herewith are hereby repealed.
- (b) These Regulations shall take effect and be in force from and after the earliest period allowed by law. (Ord. 1973-10. Passed 1-8-74.)

1103.07 SEVERABILITY.

Each article, section and part of each section of these Subdivision Regulations, is hereby declared to be an independent article, section or part of a section and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any such article, section or part of a section, or any provision thereof, or the application thereof to any person or circumstances is held to be invalid, the remaining articles, sections or parts of sections and the application of such provisions to any other person or circumstances, other than those as to which it is held invalid, shall not be affected thereby, and it is hereby declared to be the legislative intent that the other provisions of these Regulations would have been adopted independently of such article, section or part of a section so held to be invalid. (Ord. 1973-10. Passed 1-8-74.)

1103.99 PENALTY.

Whoever violates or fails to comply with, or who permits or causes any person in their or its employ to violate or fail to comply with any provision of these Subdivision Regulations shall upon conviction thereof be subject to a fine of not more than fifty dollars (\$50.00) for each and every offense. Each and every day shall constitute a separate violation.

CHAPTER 1105

Preliminary Plat

- 1105.01 Consultation.**
- 1105.02 Filing.**
- 1105.03 Contract of sale prior to preliminary plat.**
- 1105.04 Areas subject to flooding.**
- 1105.05 Filing fee.**
- 1105.06 Contents.**
- 1105.07 Minimum standards.**
- 1105.08 Approval by Planning Commission.**
- 1105.09 Disapproval by Planning Commission.**
- 1105.10 Approval by Council.**
- 1105.11 Approval without plat.**
- 1105.12 Acceptance of streets.**
- 1105.13 Work on unapproved subdivision.**
- 1105.14 Policy on public improvements.**

CROSS REFERENCES

- Plats - see Ohio R.C. Ch. 711
- Preliminary plat defined - see P. & Z. 1101.01(a)(14)
- Plat approval required - see P. & Z. 1103.01
- Final plat - see P. & Z. Ch. 1107
- To be checked against final plat - see P. & Z. 1107.03

1105.01 CONSULTATION.

Before preparing and submitting a preliminary plat to the Planning Commission, the subdivider or his engineer shall consult with the Commission while the plat is in sketch form, to ascertain the location of proposed highways, primary or secondary streets, parkways, parks, playgrounds, school sites and other planned developments and to acquaint himself with the Commission's requirements. Where a large scale project is contemplated, the subdivider shall also submit a master plan for the entire project area, even though the land to be platted immediately represents only a portion of the total area.
(Ord. 1973-10. Passed 1-8-74.)

1105.02 FILING.

The subdivider shall prepare a preliminary plat of the proposed subdivision which shall conform with the requirements set forth in these Regulations and shall file with the Clerk an application in writing for approval of such plat accompanied by at least four black line or blue line prints and one reproducible tracing on cloth or mylar type material, accurately drawn to a scale of 100 feet to the inch or larger scale on one or more sheets of twenty-four by thirty-six or twenty-two by thirty-four inches in size. Filing shall be made at least fifteen working days prior to the meeting of the Planning Commission at which the plat is first considered. Within two working days after the filing, the Clerk shall place one copy of the preliminary plat in a permanent file and distribute the remaining copies to the Village Administrator for approval, the Engineer for approval, and other appropriate agencies for review and comment.
(Ord. 2001-17. Passed 5-14-01.)

1105.03 CONTRACT OF SALE PRIOR TO PRELIMINARY PLAT.

No person, firm or corporation, proposing to make or having made a subdivision within jurisdiction of these Regulations shall enter into any contract for the sale of, or shall offer to sell any subdivision or any part thereof, or shall proceed with any construction work on such proposed subdivision, including grading, until he or it has obtained from the Planning Commission, the approval of the preliminary plat of the proposed subdivision.
(Ord. 1973-10. Passed 1-8-74.)

1105.04 AREAS SUBJECT TO FLOODING.

In order to protect the health, safety and general welfare of the people, the Planning Commission will reject any proposed subdivision located in an area subject to periodic flooding. Whenever a subdivision is proposed to be located in an area having poor drainage or other adverse physical characteristics, the Commission may approve the plat, provided the subdivider legally binds himself to make such improvements as, in the judgment of the Engineer, will render the subdivision safe and acceptable for the intended use. In this case, the subdivider shall post a surety performance bond sufficient to cover the cost of such improvements as estimated by the official having jurisdiction.
(Ord. 1973-10. Passed 1-8-74.)

1105.05 FILING FEE.

(a) Upon filing a preliminary plat for a subdivision, the subdivider shall pay the sum of ten dollars (\$10.00) for a subdivision containing not more than two lots; twenty dollars (\$20.00) for a subdivision containing three to five lots; and for a subdivision containing six or more lots, the

fee shall be twenty dollars (\$20.00) plus two dollars (\$2.00) for each additional lot over five in the proposed subdivision, such fee to be applicable as the land subdivision permit fee required by the provisions of these Regulations. The amount shall not be returned to the subdivider upon failure to meet the requirements of these Regulations or failure to submit a final plat in proper form. The fee shall be used for the purpose of providing funds for administrative costs incidental to processing of the plat by Council, the Planning Commission and their officers or employees.

(b) The subdivider shall pay such additional costs necessary to provide for plat or plan review, including, but not limited to, engineering, planning and architectural costs and expenses. (Ord. 1973-10. Passed 1-8-74.)

1105.06 CONTENTS.

The preliminary plat shall include the following:

- (a) The general location of the subdivision.
- (b) The name under which the proposed subdivision is to be recorded and the name and addresses of the subdivider, the owners, and of the registered engineer or registered surveyor, platting the tract. The proposed name of the subdivision shall not duplicate the name of any other subdivision already in use in Carroll County.
- (c) The location of present property, section and Congressional Township Lines, U.S. Survey and lines of incorporated areas, streets, buildings, watercourses, sinkholes, tree masses and other similar existing features within the area to be subdivided and on property immediately adjacent thereto.
- (d) The names and boundaries of all adjoining subdivisions and the names of the record owners of adjoining parcels of unsubdivided land.
- (e) The zoning district or districts that affect the property to be subdivided.
- (f) North point, scale, date and acreage.
- (g) Existing contours with intervals of five feet where the slope is greater than ten percent (10%) and not more than one foot where the slope is less than ten percent (10%). Elevations shall be based upon sea level datum. The location of bench marks and their elevation, and all other monuments shall also be shown.
- (h) The proposed location, name and dimensions of streets, alleys, lots, building lines and easements and the approximate area of lots in square feet.
- (i) The location and size of existing and proposed sanitary and storm sewers, water mains, culverts, street lights and other utilities and underground structures and other public improvements within the tract or immediately adjacent thereto.
- (j) Parcels of land intended to be dedicated to or temporarily reserved for public use, or reserved by deed covenant shall be clearly indicated and the conditions proposed for such covenants and for the dedications shall be shown on or attached to the preliminary plat.
- (k) The location and results of tests made to ascertain subsurface soil conditions shall be shown if required by the Planning Commission. The location and results of soil percolation tests shall be indicated if individual sewage disposal systems are proposed.
- (l) When lots are located on a curve or when side lot lines are at angles other than ninety degrees, the width of the lot at the building line shall be shown.

(Ord. 1973-10. Passed 1-8-74.)

1105.07 MINIMUM STANDARDS.

(a) Relation to Adjoining Street System. The subdivider may be required to continue certain adjoining streets through the area being subdivided when necessary to provide for local vehicular movement or to enable adjoining property to be properly subdivided.

(b) Street Widths.

- (1) The width of streets shall conform to the width designated on the street plan as adopted by the Village and any subsequent amendments thereto.
- (2) Streets shall have the following minimum right-of-way widths:

Primary	100 feet
Secondary	80 feet
Industrial	60 feet
Minor	60 feet

- (3) Whenever any subdivision or resubdivision provides lots in the interior of existing blocks, such lots shall front upon, or have proper access to, a permanently dedicated street or place which connects with one of the streets bounding the block. All dead-end streets or places shall have adequate provision for the turning of vehicles in the interior portions of the block. Such turning area shall be a circular drive having an overall diameter of not less than 100 feet to the street lines.
- (4) Whenever there exists a dedicated or platted portion of a street adjacent to the tract to be subdivided the remaining portion of the street shall be platted or dedicated to provide a minimum right-of-way of fifty feet for single-family developments, or sixty feet for two-family or multiple dwelling developments.
- (5) Whenever the tract to be subdivided adjoins an existing public street which does not meet the standard specifications for public streets, the developers may be required to alter and repair the existing street in accordance with the specifications.
- (6) All street intersections shall be rounded to a minimum radius of twenty-five feet.

(c) Blocks and Lots.

- (1) No block shall be longer than 1,200 feet between street lines.
- (2) Where blocks are over 750 feet in length, the Planning Commission may require a crosswalk near the center of the block. The right-of-way for any such crosswalks shall not be less than ten feet in width and such crosswalk shall be improved with at least a four foot wide sidewalk.
- (3) All side lines of lots shall be at right angles to straight street lines, or radial to curved street lines, unless a variation to this rule will give a better lot plan. Lots with double frontage shall be avoided.
- (4) Corner lots shall have extra width to permit maintenance of building setback lines on both front and side streets, as required by the Zoning Ordinance.
- (5) The minimum area and width of all lots shall conform to the area regulations of the zoning district in which the lot is located.
- (d) Easements. Easements of not less than seven and one-half feet in width shall be provided on each side of all rear lot lines and side lines where necessary for wires, conduits, storm and sanitary sewers, gas, water and drainage ditches. Easements of greater width may be required along lines or across lots where necessary for the extension of main sewers and similar utilities.
- (e) Street Names. Streets that are obviously in alignment with others already existing and named shall bear the names of the existing streets. Street names shall not be duplicated within the County. (Ord. 1973-10. Passed 1-8-74.)

1105.08 APPROVAL BY PLANNING COMMISSION.

(a) The preliminary plat shall be deemed submitted to the Planning Commission at its first regular meeting scheduled not less than fifteen working days following the filing of such plat with the Clerk as provided.

(b) The Planning Commission shall approve such plat at their next regular meeting, or shall disapprove the same. The failure of the Commission to approve or disapprove a plat within the time herein fixed or such further time as the applying party may agree to, shall constitute approval of the plat by the Commission. The certificate of the Secretary of the Commission as to the date of the submission of the plat for approval and the failure to take action thereon within such time, shall be issued on demand and shall be sufficient in lieu of the written endorsement of approval required by this section.

(c) The approval of the preliminary plat does not constitute an acceptance of the subdivision, but merely authorizes the developer to proceed with work on the final plat. One copy of the approved preliminary plat, signed by the Chairman of the Board of Public Affairs, Chairman of the Planning Commission, and the Mayor, shall be retained in the office of the Clerk. One signed copy shall be given to the subdivider.

(d) Receipt of such signed copy is authorization for the subdivider to proceed with the preparation of detailed plans and specifications for the minimum improvements required in these Regulations, and with the preparation of the final plat. Prior to the construction of any improvements required or to the submission of any bond, the subdivider shall furnish the Council all plans, information and data necessary for such improvements. These plans shall be examined by Council and will be approved if in accordance with the requirements of these Regulations. Following this approval, construction can be started or the amount of a bond determined, as provided.

(Ord. 1973-10. Passed 1-8-74.)

1105.09 DISAPPROVAL BY PLANNING COMMISSION.

(a) If the Planning Commission disapproves such plat, it shall enter in its minutes the reason for such disapproval, including citation of or reference to the rule or regulation violated by such plat. The subdivider may thereafter make such changes as he deems necessary to conform the plat to the rules and regulations and resubmit the same as revised to the Commission for approval or disapproval, which revised plat shall be processed within the times and in the manner provided in this section.

(b) Within sixty days after the disapproval of a plat by the Planning Commission, or within sixty days after its disapproval of a revised plat, if a revised plat shall have been submitted, the person submitting such plat may file a petition in the Court of Common Pleas of Ohio, as provided in Ohio R.C. 711.09.

(Ord. 1973-10. Passed 1-8-74.)

1105.10 APPROVAL BY COUNCIL.

Upon approval of a preliminary plat, the Planning Commission shall certify one copy thereof to Council for approval or disapproval. Failure of Council to approve or disapprove the preliminary plat at the next regular meeting occurring more than ten days following certification of such plat to Council shall be deemed to constitute approval of the preliminary plat by Council, unless a further delay is agreed to by the subdivider. Approval by Council of the preliminary plat shall constitute approval of the layout of the streets and public grounds shown thereon, and shall evidence Council's intention to accept the dedication of the same upon approval by the Commission of the final plat. Council's approval shall confer upon the subdivider the right for a one year period from the date of approval that the general terms and conditions under which the preliminary approval was granted will not be affected by any changes and/or amendments to these Regulations.

(Ord. 1973-10. Passed 1-8-74.)

1105.11 APPROVAL WITHOUT PLAT.

If the Planning Commission is satisfied that the proposed subdivision is not contrary to applicable platting, subdivision or zoning regulations, it may approve such subdivision and stamp the deed "Approved by the Planning Commission of the Village of Carrollton, Ohio, No Plat Required".

1105.12 ACCEPTANCE OF STREETS.

(a) All plats of proposed allotments must be submitted to the Planning Commission and recommended by the Planning Commission to Council. Acceptance of plats of proposed allotments and the acceptance of streets can only be done by Council.

(b) The Village Engineer shall not approve a plat constituting an acceptance of a street for public use by the Village as provided in Ohio R.C. 711.091 until such time as Council has enacted an ordinance accepting such street or streets for public use by the Village.

1105.13 WORK ON UNAPPROVED SUBDIVISION.

No owner or agent of the owner of any land within the jurisdiction of these Subdivision Regulations shall proceed with any work on a proposed subdivision, including grading, which may affect the arrangement of streets, utilities or change the natural course of surface drainage, until he has obtained tentative approval of the proposed subdivision plat and has met the other requirements herein set forth.

1105.14 POLICY ON PUBLIC IMPROVEMENTS.

The Village hereby defines its policy to be that the Village will withhold all public improvements of whatsoever nature, including the maintenance of streets and the furnishing of sewerage facilities and water service from all subdivisions which have not been approved, from all areas dedicated to the public which have not been accepted by Council in the manner prescribed herein.

CHAPTER 1107

Final Plat

- 1107.01 Required; filing.**
- 1107.02 Park fees.**
- 1107.03 Checking against preliminary plat; certification.**
- 1107.04 Approval.**
- 1107.05 Council acceptance of plat.**
- 1107.06 Bond requirements.**
- 1107.07 Contents.**
- 1107.08 Council approval.**

CROSS REFERENCES

- Plats - see Ohio R.C. Ch. 711
- Final plat defined - see P. & Z. 1101.01(a)(8)
- Plat approval required - see P. & Z. 1103.01
- Preliminary plat - see P. & Z. Ch. 1105

1107.01 REQUIRED; FILING.

Upon completion of all improvements or posting of appropriate bonds as required by these Regulations, the subdivider shall file the final plat with the Clerk at least fifteen working days before the Planning Commission meeting. The final plat of any portion of a larger subdivision, the preliminary plat of which has been approved by the Commission, may be submitted for approval. Completion of improvements, or the giving of security therefor, need only cover that portion of the plat for which final approval is requested. Within two working days after the filing, the Clerk shall place one copy of the final plat in a permanent file and distribute the remaining copies to the Engineer for approval and the Village Administrator for approval and other appropriate agencies for review and comment.

(Ord. 1973-10. Passed 1-8-74.)

1107.02 PARK FEES.

The owner of each new subdivision as a prerequisite to the approval of the final plat thereof, shall pay a park and playground fee into the Park and Playground Fund of the Village. Such fee shall be computed as follows:

- (a) The sum of forty dollars (\$40.00) for each dwelling unit permitted to be constructed thereon under applicable regulations of the Zoning Ordinance. For each lot or parcel intended for commercial, office or other business use, an amount computed at the rate of four hundred dollars (\$400.00) for each acre of such lot or parcel. The Park and Playground Fund shall be used for the acquisition or improvement of municipal parks and playgrounds exclusively, and for no other purpose.
- (b) In lieu of payment of the above park and playground fee, Council on recommendation of the Planning Commission may accept the dedication for public park and playground use, open spaces constituting not less than fifteen percent (15%) of the gross acreage of the subdivision, suitably located and of adequate size; provided, however, that in no event shall the aggregate value of such dedicated land be less than the equivalent park and playground fee otherwise payable and computed in accordance with the above established formula. (Ord. 1973-10. Passed 1-8-74.)

1107.03 CHECKING AGAINST PRELIMINARY PLAT; CERTIFICATION.

Within five days after the final plat has been filed, a copy thereof shall be transmitted to the Engineer, who will check such plat to determine if the final plat conforms to the preliminary plat as approved. If such final plat does so conform, the Engineer shall forward such plat to the Village Administrator together with a certificate showing that the technical details of the plat have been checked and that such final plat conforms in all essential respects to the preliminary plat, and that all required improvements have been satisfactorily completed, or that security has been given for the making of such improvements, as provided by these Regulations. Following their approval and designation of such by signature of the Chairman, the Village Administrator shall forward the final plat to the Commission.

(Ord. 1973-10. Passed 1-8-74.)

1107.04 APPROVAL.

At the first meeting of the Planning Commission after a copy of the final plat, together with the Engineer's certificate and the approval of the Village Administrator has been received by the Commission, the Commission shall approve the final plat and the Chairman of the Commission shall endorse such approval on the plat. Failure of the Commission to approve or disapprove the plat within the time fixed or such further time as the applying party may agree to, shall constitute approval of the plat, and the certificate of the secretary of the Commission as to the date of submission of the plat for approval and the failure to take action thereon shall be issued on demand and shall be sufficient in lieu of the written endorsement of approval. If the Commission disapproves the final plat, it shall enter in its minutes the reason for such disapproval.

(Ord. 1973-10. Passed 1-8-74.)

1107.05 COUNCIL ACCEPTANCE OF PLAT.

Within five days after the Planning Commission has approved the final plat, the plat shall be transmitted to Council, together with all certificates and endorsements herein required. Council shall approve the plat at its next regular meeting occurring five days or more following the transmission of the plat to it. Approval of the plat by Council shall be deemed to constitute acceptance of the public way or space shown on such plat. Failure of Council to act within the prescribed time, unless an extension of time is agreed to by the subdivider shall constitute approval of the plat.

(Ord. 1973-10. Passed 1-8-74.)

1107.06 BOND REQUIREMENTS.

The final plat in ink on tracing cloth or mylar material and five black line or blue line prints thereof, together with copies of deed restrictions and two copies of certified plans showing the improvements that are to be constructed within the subdivision, and bond assuring construction of such improvements in accordance with plans previously approved, shall be submitted to the Planning Commission.

(Ord. 1973-10. Passed 1-8-74.)

1107.07 CONTENTS.

The final plat shall show the following:

- (a) The general location of the subdivision.
- (b) The name under which the proposed subdivision is to be recorded and the names and addresses of the subdivider, the owners, and of the registered engineer or registered surveyor, platting the tract. The proposed name of the subdivision shall not duplicate the name of any other subdivision already in use in Carroll County.
- (c) The location of present property, section and Congressional Township Lines, U. S. Survey and lines of incorporated areas, streets, buildings, watercourses, sinkholes, tree masses and other similar existing features within the area to be subdivided and on property immediately adjacent thereto.
- (d) The boundaries of the property with accurate distances and bearings and the lines and extent of all proposed streets with their width and names and any other areas intended to be dedicated to public use.
- (e) The lines of adjoining streets and alleys, with their width and names.
- (f) All lot lines and easements with their dimensions.
- (g) All dimensions, both linear and angular, necessary for locating boundaries of the subdivided area, including lots, streets, alleys, easements and building line setbacks, and any other similar public or private areas. The linear dimensions shall be expressed in feet and decimals of a foot.
- (h) Radii, arcs, points of tangency, central angles for all curvilinear streets, and radii for all rounded corners.
- (i) All lot lines and an identification system for all lots and blocks.
- (j) The accurate outline of any property which is offered for dedication for public use.
- (k) All survey monuments and bench marks together with their descriptions.
- (l) Title and description of property subdivided, showing its location and extent, point of compass, scale of plan and name of subdivider and certificate of registered land surveyor that the plan represents a survey made by him and that the results of such survey are

correctly shown thereon.

- (m) Any private restrictions shall be shown on the plat or reference made to them thereon, and plats shall contain proper acknowledgment of owners and holders of mortgages accepting such platting and restrictions.
- (n) A certificate shall accompany the final plat showing that all taxes due shall have been previously paid and a certificate of title or photo copy thereof shall be submitted for inspection.
- (o) A certificate by the owner of the land to the effect that he has caused such land to be platted and that he dedicates to public use the streets, parks and other land indicated on the plat as intended for public use.
- (p) There shall be submitted with each plat, a tabulation showing the exact area of each lot, reserve or other parcel on such plat (other than streets and alleys), such area to be computed inclusive of and after the extensions of lot or parcel lines to the centerline of contiguous public ways, such as streets or alleys. The purpose of this requirement is to facilitate calculation of the trunk sanitary sewer benefit charges for each lot and parcel.
- (q) The final plat is to be drawn at a scale of 100 feet or less to the inch from an accurate survey and one or more sheets whose dimensions are twenty-four inches by thirty inches. In certain unusual instances, where the subdivided area is of unusual size or shape, the Planning Commission may permit a variation in the scale or size of the final plat.

(Ord. 1973-10. Passed 1-8-74.)

1107.08 COUNCIL APPROVAL.

If the Planning Commission disapproves the plat, it shall transmit its reasons therefor to Council who may then approve the plat only by a five-sixths vote of its membership. (Ord. 1973-10. Passed 1-8-74.)

CHAPTER 1109

Improvements

- 1109.01 Design requirements.**
- 1109.02 Standards for improvements.**
- 1109.03 Engineer's approval required.**
- 1109.04 Permits for construction.**
- 1109.05 Security for construction.**
- 1109.06 Cost of inspection, supervision, etc.**
- 1109.07 Construction of buildings.**
- 1109.08 Time for construction of improvements.**
- 1109.09 Street construction.**
- 1109.10 Water supply.**
- 1109.11 Storm drainage.**
- 1109.12 Sewerage.**
- 1109.13 Street signs.**
- 1109.14 Construction plans.**
- 1109.15 Inspection.**
- 1109.16 Maintenance after approval.**
- 1109.17 Fire hydrants.**

CROSS REFERENCES

Adoption of general rules and regulations for construction of improvements - see Ohio R.C. 711.101

Improvements defined - see P. & Z. 1101.01(a)(9)

Public improvements policy - see P. & Z. 1105.14

Design standards - see P. & Z. Ch. 1111

1109.01 DESIGN REQUIREMENTS.

The design of all improvements, including grades of streets, type of pavement, drainage, sidewalks, sanitary sewers, storm sewers, water distribution facilities and street lighting facilities shall conform to the requirements of the Engineer. The preliminary plat should set forth the character and general details of the development and shall be accompanied by plans and statements regarding the details of improvement such as grading, draining, paving, sidewalks, street lights, storm and sanitary sewers and water mains. The subdivider may be required to extend improvements to boundaries of the proposed subdivision to serve adjoining land. (Ord. 1973-10. Passed 1-8-74.)

1109.02 STANDARDS FOR IMPROVEMENTS.

Before the Council will officially accept any street improvements, water distribution facilities, sidewalks, street lighting facilities or storm and sanitary sewer facilities in a subdivision and become responsible for their maintenance, supervision and repair, such improvements shall be constructed in accordance with the Construction and Material Specifications of the Village in effect at the time the improvements are made and Council shall have received a certificate of conformance from the Engineer. Monuments shall be placed at angle points, points of curves in streets, and at such other points as required by the Engineer. Monuments shall be of such material, size and length as may be approved by the Engineer.

(Ord. 1973-10. Passed 1-8-74.)

1109.03 ENGINEER'S APPROVAL REQUIRED.

At least four copies of detailed plans and specifications for all improvements shall be submitted to the Engineer and meet his approval before any construction shall proceed. Such plans shall be prepared by an Engineer, licensed in the State of Ohio. The Village shall maintain a competent inspector on the job when improvements are being constructed. The cost of the services of the Engineer in review and approval of detailed plans and specifications, the cost of inspection and supervision of construction shall be reimbursed to the Village by the developer. (Ord. 1973-10. Passed 1-8-74.)

1109.04 PERMITS FOR CONSTRUCTION.

Upon preliminary approval by Council, the subdivider may secure from appropriate authorities the necessary permits to proceed with the required street, sanitary, water and drainage improvements. (Ord. 1973-10. Passed 1-8-74.)

1109.05 SECURITY FOR CONSTRUCTION.

In lieu of constructing improvements, the subdivider may apply for final plat approval by insuring completion of the required improvements by one of the following methods:

- (a) A surety performance bond may be posted with the Village, sufficient to cover the full cost of such improvements as estimated by the Engineer to assure the satisfactory installation of such improvements.
- (b) The subdivider may deposit in a bank or savings and loan association in Carroll County, Ohio, the sum of not less than the total estimated improvement cost, to be held in escrow to guarantee the satisfactory completion of such improvements within the required time, the form of such escrow to be subject to the approval of the Solicitor and which agreement may provide for the making of payments from such funds from time to time upon certificates of the Engineer that the balance remaining after such payments will, in his opinion, be adequate to pay the remaining costs of such improvements.
- (c) The subdivider may deposit with the Village a certified check in the amount of the total estimated improvement cost, to be held in escrow until the satisfactory completion of construction, unless there be a default in the completion of such improvements, in which event the check may be cashed by the proper official and the proceeds thereof used to complete the improvements, to pay claims connected therewith for which the subdivider may be liable, or to cure any other default of the subdivider connected with the making of such improvements.
- (d) These are the only options which shall be accepted by the Village of Carrollton, Ohio. Letters of Credit shall not be acceptable from this date forward, regardless of their irrevocability. (Ord. 2001-05. Passed 3-12-01.)

1109.06 COST OF INSPECTION, SUPERVISION ETC.

(a) The subdivider shall pay the cost to the Village of the approval of the plans and specifications, inspection and engineering supervision of construction by the Engineer and the cost of the legal services and administrative expense incident to such improvements. If required by the Village, the subdivider shall deposit such sums of money as are estimated to be necessary for the foregoing purposes, and in the event that such estimated amounts are found to be insufficient, shall deposit such additional sum as may be necessary, all unexpended moneys so deposited to be refunded.

(b) The charge to be collected for legal service and administrative expense shall be two percent (2%) of the field cost of such improvements, as estimated by the Engineer; provided, however, that the Village may determine a different charge, where, in his opinion, such percentum charge is not fair to both parties.

(c) The charge to be collected for inspection of such construction shall be the actual expense incurred on an hourly basis for the Engineer. (Ord. 1973-10. Passed 1-8-74.)

1109.07 CONSTRUCTION OF BUILDINGS.

Construction of buildings shall not be permitted until all improvements are completed and accepted by the Village. (Ord. 1973-10. Passed 1-8-74.)

1109.08 TIME FOR CONSTRUCTION OF IMPROVEMENTS.

All required improvements shall be constructed within two years of the acceptance of the final plat by Council. (Ord. 1973-10. Passed 1-8-74.)

1109.09 STREET CONSTRUCTION.

Streets shall be graded to full width of the right-of-way and fully constructed in accordance with the Construction and Material Specifications of the Village in effect at the time the improvements are made. (Ord. 1973-10. Passed 1-8-74.)

1109.10 WATER SUPPLY.

Where a public water supply main is reasonably accessible, in the judgment of the Planning Commission, the subdivision shall be provided with a complete loop type water distribution system adequate to serve the area being platted, including a connection for each lot and fire hydrants spaced in accordance with the requirements of the National Board of Fire Underwriters. Where public water supply is not available within a reasonable distance, the average size of the lots shall be not less than 20,000 square feet. The entire water system shall be designed to meet the approval of the Engineer. (Ord. 1973-10. Passed 1-8-74.)

1109.11 STORM DRAINAGE.

Every subdivision shall be provided with a storm water sewer or drainage system adequate to serve the area being platted and otherwise meeting the approval of the Engineer. (Ord. 1973-10. Passed 1-8-74.)

1109.12 SEWERAGE.

Where a public sanitary sewer main is reasonably accessible, in the opinion of the Planning Commission, the subdivision shall be provided with a complete sanitary sewer system, connected with such public sewer main, including a lateral connection for each lot. Where a public sanitary sewer main is not reasonably accessible, the subdivision shall be provided with a community sewage treatment plant or disposal facilities of a type meeting the approval of the Engineer and County Board of Health. (Ord. 1973-10. Passed 1-8-74.)

1109.13 STREET SIGNS.

The subdivider shall reimburse the Municipality for the cost of street signs. (Ord. 1973-10. Passed 1-8-74.)

1109.14 CONSTRUCTION PLANS.

Construction plans for the following improvements shall be furnished in accordance with the Construction and Material Specifications of the Village in effect at the time the improvements are made and shall receive approval of the Engineer before improvements are installed, and before approval of the final plat:

- (a) Centerline profile of each proposed street showing tentative grades.
- (b) Cross-section of each proposed street, showing width and type of pavement, location and width of sidewalks, location and size of utility mains.
- (c) Plans and profiles of proposed sanitary sewer and storm water sewers showing grades and sizes, or method of sewage or storm water disposal in lieu of sewers.
- (d) A plan of the proposed water distribution system, showing pipe sizes and the location of valves and fire hydrants.
- (e) A drainage plan showing all existing and proposed storm sewers, manholes, catch basins, watercourses, culverts and other underground structures within the tract and immediately adjacent thereto, with pipe sizes and grades, and waterway openings indicated thereon. The grading plan shall show the method to be used for adequate disposal of all storm water, including drainage outlets, and such other data as may be required by the Engineer.

(Ord. 1973-10. Passed 1-8-74.)

1109.15 INSPECTION.

Prior to starting any of the work covered by the above plans, after approval thereof, arrangements shall have been made to provide for inspection of the work sufficient, in the opinion of the Engineer, to insure compliance with the plans and specifications as approved.
(Ord. 1973-10. Passed 1-8-74.)

1109.16 MAINTENANCE AFTER APPROVAL.

For a period of one year from the date the constructed improvements were accepted by Council, the subdivider shall make such repairs or replacements as may be required by reason of defective workmanship or materials. (Ord. 1973-10. Passed 1-8-74.)

1109.17 FIRE HYDRANTS.

(a) All subdividers and/or developers undertaking construction or alterations within the Village of Carrollton, Ohio shall be responsible for furnishing and installation of all required fire hydrants as well as all necessary connections and accessories within the given project.

(b) All hydrants shall comply with the following specifications:

HYDT 6129 6" MJ 4.50" AWWA Traf Mod fire hydrant MJ w/(2) 2 ½" hose nozz w/NAT STD THDS & (1) 4" pump nozz w/ 5.0000" OD 4TPI HC (K-2) THDS 1 1/8" square open nut 6" shoe w/MJ ACCS 5' - 0" trench open left w/ special paint yellow w/ red bonnet & caps.

(Ord. 2001-22. Passed 6-11-01.)

CHAPTER 1111

Design Standards

1111.01 Minimum pavement widths.

1111.02 Street grades.

1111.03 Grade changes.

1111.04 Curvature of streets.

1111.05 Intersections.

1111.06 Entrance gates and signs.

CROSS REFERENCES

Improvements - see P. & Z. Ch. 1109

Design requirements - see P. & Z. 1109.01

Street construction - see P. & Z. 1109.09

Variances - see P. & Z. 1113.01

1111.01 MINIMUM PAVEMENT WIDTHS.

Minimum pavement widths, back to back of curb, installed at subdivider's expense, shall be as follows:

(a) Primary streets - fifty feet; secondary streets - forty-four feet; collector streets - thirty-six feet; minor streets - thirty feet.

(b) Minor streets, including cul-de-sacs, shall not be over six hundred feet long. The pavement of a turning circle at the end of a dead-end street shall have a minimum outside diameter of eighty feet. A "T" or "Y" shaped paved space, when approved by the Planning Commission in place of a turning circle, shall extend entirely across the width of the street right-of-way, except for sidewalk space, and shall be at least ten feet wide with the flared portion rounded by minimum radii of twenty feet.

(Ord. 1973-10. Passed 1-8-74.)

1111.02 STREET GRADES.

(a) The grades of streets shall not exceed the following, except that where unusual or exceptional conditions exist, the Engineer may modify these regulations:

(1) Primary streets: four percent (4%).

(2) Secondary and collector streets: seven percent (7%).

(3) Minor streets and service drives: ten percent (10%).

(4) Pedestrian ways or crosswalks: twelve percent (12%), unless steps of an acceptable design are to be constructed.

(5) In no event shall the minimum grade of any street be less than four-tenths of one percent (.4%).

(Ord. 1973-10. Passed 1-8-74.)

1111.03 GRADE CHANGES.

All changes in street grades in excess of one percent (1%) shall be connected by vertical curves of a minimum length equal to fifteen times the algebraic difference in the rates of grade, but not less than fifty feet.

(Ord. 1973-10. Passed 1-8-74.)

1111.04 CURVATURE OF STREETS.

The radii of curvature on the centerline shall not be less than the following:

(a) Primary and secondary streets: 400 feet.

(b) Minor streets and service drives: 200 feet.

(Ord. 1973-10. Passed 1-8-74.)

1111.05 INTERSECTIONS.

(a) At street intersections, property line corners shall be rounded by an arc, the minimum radius of which shall be twenty-five feet.

(b) Street curb intersections shall be rounded by radii of at least twenty feet.

(Ord. 1973-10. Passed 1-8-74.)

1111.06 ENTRANCE GATES AND SIGNS.

Entrance gates, posts, columns, walls, fences or similar structures designed to indicate entrances to subdivisions or parts thereof, and signs designating the subdivision or development, are permissible either on public or private property, provided both the Planning Commission and Council determine such structures to be desirable. In no case will such approval be given unless provision is made, satisfactory to Council, for proper location and maintenance of such structures.

(Ord. 1973-10. Passed 1-8-74.)

CHAPTER 1113

Variances and Exceptions

1113.01 Variances; exceptions.

CROSS REFERENCES

Amendments - see P. & Z. 1103.05

Zoning ordinance variances - see P. & Z. 1129.05(c)

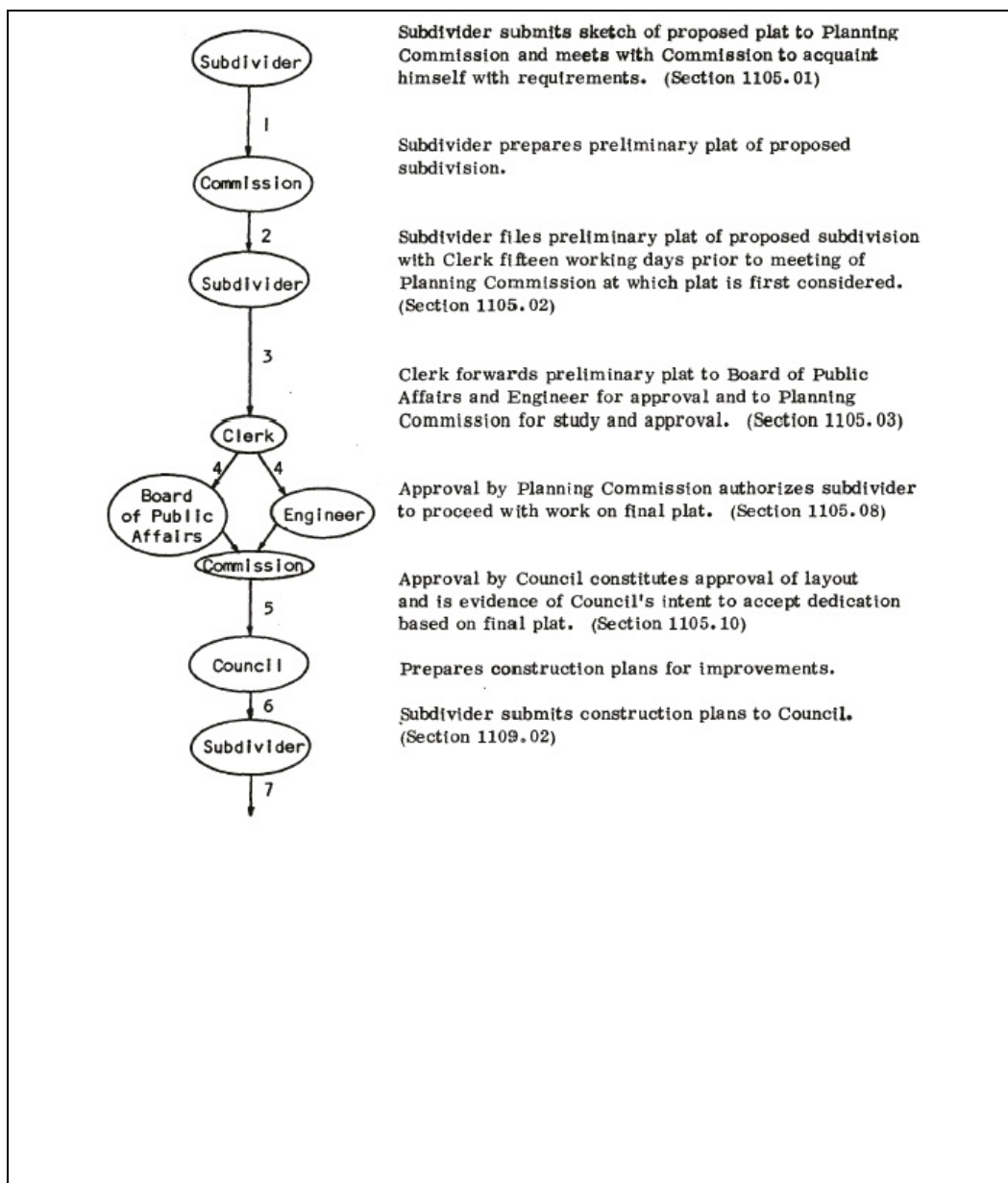
1113.01 VARIANCES; EXCEPTIONS.

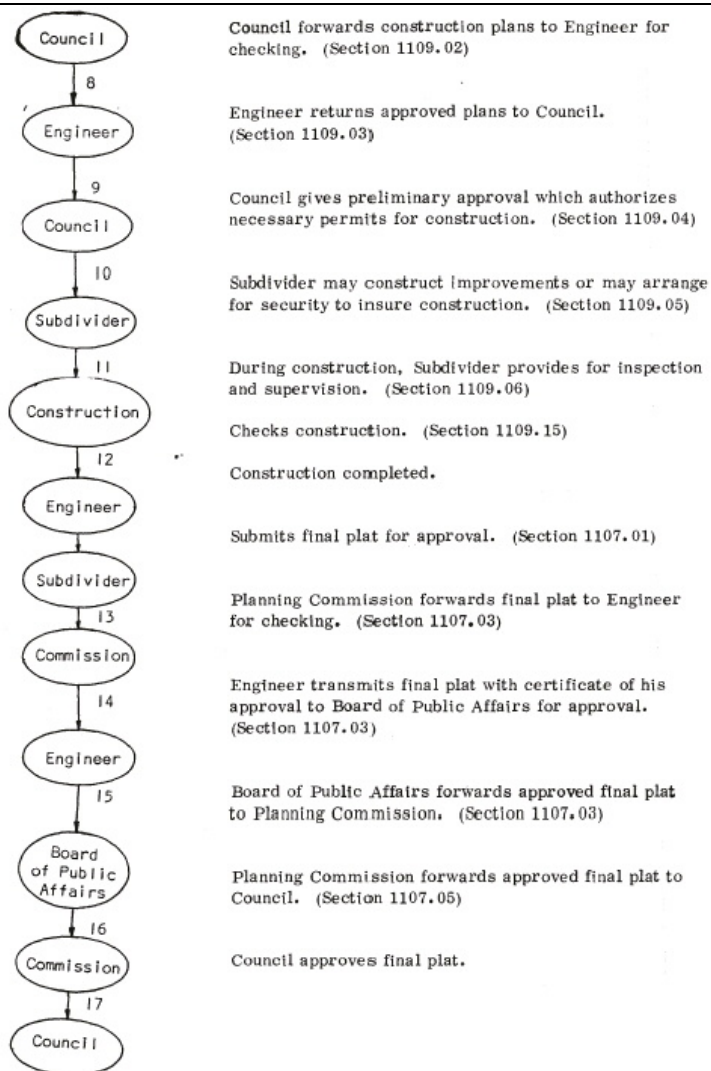
Whenever the strict enforcement of these Regulations would entail unusual, real and substantial difficulties or hardships, the Planning Commission and Council, may vary or modify the terms in such a way that the subdivider is allowed to plan and develop his property, record a plat of same and make necessary improvements without unjust difficulties and hardships, if at the same time the public interests of the Municipality are fully protected and the general intent and purpose of these Regulations preserved. Planned unit development approach to development is encouraged and these Regulations may be modified by the degree necessary to accomplish such type of development. (Ord. 1973-10. Passed 1-8-74.)

APPENDIX

Subdivision Process Flow Chart

Note: All steps indicated in the process are required. However, for clarity, the major steps have been enclosed in a box.





TITLE THREE - Zoning Administration

- Chap. 1121. Definitions.
- Chap. 1123. Title, Interpretation and Validity.
- Chap. 1125. Enforcement and Penalty.
- Chap. 1127. Permits, Certificates and Fees.
- Chap. 1129. Board of Zoning Appeals.
- Chap. 1131. Zoning District Map.
- Chap. 1133. Amendments.

CHAPTER 1121

Definitions

1121.01 Meanings of words.

CROSS REFERENCES

Subdivision Regulations definitions - see P. & Z. 1101.01

Fence definitions - see P. & Z. 1183.03

Sign definitions - see P. & Z. 1189.02

1121.01 MEANINGS OF WORDS.

(a) For purposes of this Zoning Ordinance, certain terms are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure" and "premises"; the word "shall" is mandatory and not directory; the words "used" or "occupied" include the words "intended", "designed" or "arranged to be used or occupied"; the word "lot" includes the words "plot" or "parcel"; and the word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. Any word not herein defined shall be as defined in any recognized standard English dictionary.

- (1) "Accessory building" means a subordinate building the use of which is incidental to and customary in connection with the principal building or use and which is located on the same lot with such principal building or use.
- (2) "Accessory use" means a subordinate use which is incidental to and customary in connection with the principal building or use and which is located on the same lot with such principal building or use.
- (3) "Agricultural activity" means the use of land for agricultural purposes, including forests and forest products, harvest and management, dairy farming, livestock grazing and pasturage, truck gardening, the raising of crops, fruit and nursery stock, fish farms, fur bearing animal farms, and the harvesting, processing, packaging, packing, shipping and selling of products produced on the premises, and incidental farm occupations and uses such as machinery, farm equipment and domestic repair and construction, but not including commercial feed lots.
- (4) "Alley" means a public or private thoroughfare which affords only a secondary means of access to abutting property.
- (5) "Apartment," See Dwelling Unit.
- (6) "Automobile service station" means any land, building, structure, or premises used for the sale at retail of motor vehicle fuels, oils, or accessories or for servicing or lubricating motor vehicles or installing or repairing parts and accessories, but not including the repairing or replacing or major overhaul of motors, bodies or fenders, of motor vehicles or painting motor vehicles, public garages, and the open storage of rental vehicles or trailers.
- (7) "Basement" means a story having part but not more than one-half of its height below grade. A basement is counted as a story for the purposes of height regulation if subdivided and used for dwelling purposes, other than by a janitor employed on the premises. (See Cellar also.)
- (8) "Board" means the Board of Appeals as established in Chapter 1129.
- (9) "Boarding house" means a building, other than a hotel, or apartment hotel where, for compensation and by prearrangement for definite periods of time, lodging, meals or lodging and meals are provided for three or more persons.
- (10) "Buildable area" means the area of the lot left to be built upon after the required yards are provided.
- (11) "Building" means any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property. Where roofed structures are separated from each other by party walls having no openings for passage, each person so separated shall be considered a separate building.
- (12) "Building, height of" means the vertical distance from the grade to the highest point of a flat roof, the deck line of a mansard roof, or the average height between eaves and ridge for gable, hip and gambrel roofs.
- (13) "Building Inspector" means the individual designated to administer the Building Code and the Zoning Ordinance and who is responsible for the enforcement of the regulations imposed by each.
- (14) "Building setback line" means the minimum horizontal distance between the street line and the front foundation line of a building.
- (15) "Cellar" means that part of a building having more than one-half of its height below the average grade of the adjoining ground. (See Basement also.)
- (16) "Clerk" means the Clerk-Treasurer of the Village of Carrollton.
- (17) "Clinic" means an establishment where patients are not lodged overnight, but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together.
- (18) "Club" means buildings and facilities owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit and not primarily to render a service which is customarily carried on as a business.
- (19) "Commercial feed lot" means an area of land devoted to raising and feeding of livestock where the operation is not a part of normal agricultural activity.
- (20) "Commission" means the Planning Commission of Carrollton, Ohio.
- (21) "Conditional use" means a use allowed in a zoning district after a permit is granted by the Board of Appeals in accordance with the provisions of this Zoning Ordinance.
- (22) "Council" means the Council of Carrollton, Ohio.
- (23) "Court" means an open space more than one-half surrounded by buildings.
- (24) "District" means a part of the Village wherein regulations of this Zoning Ordinance are uniform.
- (25) "Dwelling" means any building or portion thereof which is designed or used exclusively for residential purposes.
- (26) "Dwelling, single-family" means a building designed for or occupied exclusively by one family.
- (27) "Dwelling, two-family" means a building designed for or occupied exclusively by two families.
- (28) "Dwelling, multiple" means a building designed for or occupied exclusively by three or more families.
- (29) "Dwelling unit" means one or more rooms in a dwelling occupied or intended to be occupied as separate living quarters by a single family as defined herein, for owner occupancy or for rental, lease or other occupancy on a weekly or longer basis, and containing independent cooking and sleeping facilities.
- (30) "Family" means one or more persons related by blood, marriage or adoption occupying a dwelling unit as an individual housekeeping organization. A family may not include more than two persons not related by blood, marriage or adoption.
- (31) "Farm" see agricultural activity.

- (32) "Fence" means as defined in Section 1183.03.
- (33) "Floor area" means the total number of square feet of floor space within the outside line of walls and includes the total of all space on all floors of a building, but not including porches, garages, or space in a basement or cellar when such basement or cellar space is used only for storage or incidental uses.
- (34) "Frontage" means all the property on one side of a street or highway, between two intersecting streets (crossing or terminating) or for a distance of 400 feet on either side of a proposed building or structure, measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street, but not including property more than 400 feet distant on either side of a proposed building or structure.
- (35) "Garage, private" means a detached accessory building or portion of a main building, including a carport, housing the automobiles of the occupants of the premises, but not commercial vehicles.
- (36) "Garage, public" means a building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing or parking motor-driven vehicles. The term repairing shall not include an automotive body repair shop nor the rebuilding, dismantling or storage of wrecked or junked vehicles.
- (37) "Garage, storage" means any building or premises, used for housing only motor-driven vehicles, other than trucks and commercial vehicles.
- (38) "Grade" means the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.
(Ord. 1973-9. Passed 12-17-73.)
- (39) "Home occupation" means any occupation or profession carried on by a member of the immediate family, residing on the premises, in connection with which there is used no sign other than a nameplate, not more than one square foot in area, and all items such as equipment or products are stored inside so as not to change the outer appearance of the lot wherein inventory would be retained on the premises, no person is employed other than a member of the immediate family residing on the premises and one or two parking spaces will be devoted, or if need exists, and no mechanical equipment may be used that in any way shall create a potential disruption of peaceful enjoyment by adjacent or neighboring property owners. (Ord. 1979-7. Passed 6-12-79.)
- (40) "Hotel" means a building in which lodging is provided and offered to the public for compensation, and which is open to transient guests, in contradistinction to a boarding house or lodging house as herein defined.
- (41) "Institution" means a nonprofit establishment for public use.
- (42) "Kennel" means an establishment where small animals are boarded for compensation or where dogs bred or raised on a commercial scale basis.
- (43) "Landscaped area" means an area that is permanently devoted to and maintained for the growing of shrubbery, grass and other plant material.
- (44) "Loading space" means a space within the main building or on the same lot for the standing, loading or unloading of trucks, having a minimum area of 540 square feet, a minimum width of twelve feet, a minimum depth of thirty-five feet, and a vertical clearance of at least fourteen and one-half feet.
- (45) "Lodging or rooming house" means the same as "boarding house."
- (46) "Lot" means a parcel of land occupied or intended for occupancy by a use permitted in these regulations, including one main building together with its accessory buildings, open spaces and parking spaces required by these regulations, and having its principal frontage upon a road or street.
- (47) "Lot, corner" means a lot abutting upon two or more streets at their intersections.
- (48) "Lot, depth" means the mean horizontal distance between the front and rear lot lines.
- (49) "Lot, interior" means a lot other than a corner lot.
- (50) "Lot, double frontage" means a lot having a frontage on two nonintersecting roads, as distinguished from a corner lot.
- (51) "Lot, width" means the width of a lot at the front yard line.
- (52) "Lot of record" means a lot or parcel of land the plat or deed of which has been recorded prior to the adoption of this ordinance.
(Ord. 1973-9. Passed 12-17-73.)
- (53) "Manufactured Home" means a building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to "Manufactured Housing Construction and Safety Standards Act of 1974."
- (54) "Manufactured Home Park" means any tract of land upon which three or more manufactured or mobile 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 a part of the facilities of the park. (Ord. 2003-9. Passed 6-9-03.)
- (55) "Motel, motor court, motor lodge, or tourist court" means any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the lot, and designed, used or intended wholly or in part for the accommodation of automobile transients or automobile travelers.
- (56) "Nonconforming use" means the lawful use of land or a building, or a portion thereof, which use does not conform with the use regulations of the district in which it is located.
- (57) "Nursing home" means a home for the aged or infirm in which three or more persons, not members of the immediate family, are received, kept or provided with food and shelter, or care for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.
- (58) "Open area" means that part of a lot on which no part of a building or structure extends above the following elevations:
Two feet above the highest curb elevation of the street or streets that bound the lot;
One foot above the adjacent curb elevation for each one and one-fourth foot the building or structure is set back from the street lot line, except that no portion of the structure shall exceed twelve feet above the adjacent curb elevation. This provision shall not apply to walls or structures that do not extend more than four feet above the adjacent curb elevation.
- (59) "Parking space" means a surfaced area, enclosed or unenclosed, sufficient in size to store one automobile, not less than nine feet wide and twenty feet long, together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of that automobile without the necessity of moving any other automobile.
- (60) "Premises" means a lot together with all buildings and structures thereon.
- (61) "Rooming house" means the same as boarding house.
- (62) "Rowhouse" means same as townhouse.
- (63) "Sign" means as defined in Section 1189.02.

- (64) "Sign area" means as defined in Section 1189.02.
- (65) "Solicitor" means legal counsel of the Village Carrollton, Ohio.
- (66) "Standard tree" means a tree with a minimum caliper of two and one-half inches, measured at a point twelve inches above the actual or intended ground level of such tree, ten to twelve feet high, of a deciduous hard wood variety normally capable of attaining a twenty-five foot diameter when the tree is twenty years old.
- (67) "Standard shrub" means any bush or small evergreen tree occupying a space of at least eighteen cubic feet.
- (68) "Street" means a public way which affords the principal means of access to abutting property.
- (69) "Street centerline" means a line halfway between the street lines.
- (70) "Street line" means a dividing line between a lot and a contiguous street.
- (71) "Structure" means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences and signs.
- (72) "Structural alteration" means any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders, not including openings in bearing walls as permitted by other ordinances.
- (73) "Tourist home" means an establishment used for dwelling purposes in which rooms, with or without meals, are offered to transient guests for compensation.
- (74) "Townhouse or rowhouse" means a building that has one-family dwelling units erected in a row as a single building, on adjoining lots, each being separated from the adjoining unit or units by a masonry party wall or walls extending from the basement floor to the roof along the dividing lot line, and each such building being separated from any other building by space on all sides.
- (75) "Trailer court" means an area where one or more travel trailers are parked or intended to be parked.
- (76) "Travel trailer" means a trailer, pick-up camper, tent trailer, converted bus or other vehicle, or similar device used for temporary portable housing.
- (77) "Use" means the purpose or activity for which the land or building thereon is designed, arranged or intended or for which it is occupied or maintained.
- (78) "Yard" means an open space, other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in these regulations.
- (79) "Yard, front" means a yard across the full width of the lot extending from the front line of the main building to the front line of the lot. On corner lots the front yard shall face the shortest street dimension of the lot except that if the lot is square or almost square, i.e., has dimensions in a ratio of from 3:2 to 3:3, then the front yard may face either street.
- (80) "Yard, side" means a yard between the main building and the side line of the lot, and extending from the front yard line to the rear yard line.
- (81) "Yard, rear" means a yard extending the full width of the lot between a principal building and the rear lot line.
- (82) "Yard width and depth" means the shortest horizontal distance from a lot line to the main building.
(Ord. 1973-9. Passed 12-17-73.)
- (83) "Permanently sited manufactured home" means a manufactured home that meets all of the following criteria:
- The structure is affixed to a permanent foundation and is connected to appropriate facilities;
 - The structure, excluding any addition, has a width of at least twenty-two feet at one point, a length of at least twenty-two feet at one point, and a total space, excluding garages, porches, or attachments, of at least nine hundred square feet;
 - The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six inch minimum eave overhang, including appropriate guttering;
 - The structure has never been previously titled;
 - The structure is not located in a manufactured home park.
- (Ord. 2003-8. Passed 6-9-03.)

CHAPTER 1123

Title, Interpretation and Validity

- 1123.01 Title.**
1123.02 Intent; purpose.
1123.03 Interpretation.
1123.04 Validity.
1123.05 Effective date.

CROSS REFERENCES

Zoning Ordinance definitions - see P. & Z. Ch. 1121
 Enforcement and penalty - see P. & Z. Ch. 1125

1123.01 TITLE.

These regulations may be referred to as the "Zoning Ordinance".
 (Ord. 1973-9. Passed 12-17-73.)

1123.02 INTENT; PURPOSE.

The intent and purpose of these regulations are to divide the Village of Carrollton into zones and districts, limiting, restricting and regulating the height, bulk and location, including percentage of lot occupancy, setback building lines, and area and dimensions of yards, courts and other open spaces, and the uses of buildings and other structures and of premises in such zones or districts and designating the kinds, nature, character and classes of trades, industries, professions or other activities, residences and other purposes for which buildings or other structures or premises may be permitted to be erected, altered or used within the zones or districts, subject to special regulations including the number of persons, families and other group units to reside in or use them and the public, quasi-public or private nature of the use thereof all in the interest of the promotion of the public health, safety, convenience, comfort, prosperity and general welfare of the Village, and providing for the creation of and creating a Board of Appeals and delegating to such board the duty and power to administer the details of the application of these regulations.
 (Ord. 1973-9. Passed 12-17-73.)

1123.03 INTERPRETATION.

In interpreting and applying the provisions of this Zoning Ordinance they shall be held to be the minimum requirements for the promotion of

the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties, except that if this Ordinance imposes a greater restriction, this Ordinance shall control. (Ord. 1973-9. Passed 12-17-73.)

1123.04 VALIDITY.

Should any section, provision, clause, phrase or sentence of this Zoning Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid. (Ord. 1973-9. Passed 12-17-73.)

1123.05 EFFECTIVE DATE.

This Zoning Ordinance shall take effect and be in force from and after the earliest period allowed by law. (Ord. 1973-9. Passed 12-17-73.)

CHAPTER 1125

Enforcement and Penalty

1125.01 Enforcement.

1125.99 Violations and penalty.

CROSS REFERENCES

Zoning Ordinance definitions - see P. & Z. Ch. 1121

Title, interpretation and validity - see P. & Z. Ch. 1123

1125.01 ENFORCEMENT.

(a) Enforcement. It shall be the duty of the Building Inspector to enforce this Zoning Ordinance. The Building Inspector shall receive applications required by this Ordinance, issue permits and furnish the prescribed certificates; shall examine premises for which permits have been issued, and shall make necessary inspections to see that the provisions of law have been met; shall enforce all laws relating to the construction, alteration, repair, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures except as may be otherwise provided for; shall, when requested by the Mayor or Council, or when the interests of the Municipality so require, make investigations in connection with matters referred to in this Ordinance and render written reports on the same; and for the purpose of enforcing compliance with law, shall issue such notices or orders as may be necessary.

(b) Inspections. Inspections shall be made by the Building Inspector or a duly appointed assistant.

(c) Rules. For carrying into effect its provisions, the Building Inspector may adopt rules consistent with this Zoning Ordinance.

(d) Records. The Building Inspector shall keep careful and comprehensive records of applications, of permits issued, of certificates issued, of inspections made, of reports rendered, and of notices or orders issued. He shall retain on file copies of all papers in connection with building work so long as any part of the building or structure to which they relate may be in existence. All such records shall be open to public inspection at reasonable hours, but shall not be removed from the office of the Building Inspector.

(e) Cooperation of Other Officials. The Building Inspector may request and shall receive, so far as may be necessary in the discharge of his duties, the assistance and cooperation of the Engineer in fixing grades, of the Chief of Police in enforcing orders, of the Solicitor in prosecuting violations, and of other officials as appropriate.

(Ord. 1973-9. Passed 12-17-73.)

1125.99 VIOLATIONS AND PENALTY.

Whoever violates any of the provisions of this Zoning Ordinance or fails to comply therewith or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder, shall be deemed guilty of a misdemeanor and shall be liable to a fine of not more than one hundred dollars (\$100.00) and each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises or part thereof, where anything in violation of this section shall be placed or shall exist, any architect, builder, contractor, individual, or corporation employed shall be deemed guilty of a separate offense and upon conviction shall be fined as herein provided.

(Ord. 1973-9. Passed 12-17-73.)

CHAPTER 1127

Permits, Certificates and Fees

1127.01 Building permit.

1127.02 Certificate of occupancy.

1127.03 Fees.

CROSS REFERENCES

Conditional use permits - see P. & Z. 1129.05(d)

Sign fees - see P. & Z. 1189.10(d)

1127.01 BUILDING PERMIT.

(a) When Required. No person shall construct, alter, repair, remove or demolish or commence the construction, alteration, removal or demolition of a building or structure without first filing with the Building Inspector an application in writing and obtaining a formal permit.

(b) Form. An application for a permit shall be submitted in such form as the Building Inspector may prescribe. Such application shall be made by the owner or lessee, or agent of either, or the architect, engineer, or building contractor employed in connection with the proposed work. If such application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner in fee, or the person making the application that the proposed work is authorized by the owner in fee and that the person making the application is authorized to make such application. Such application shall contain the full names and addresses of the applicant and of the owner, and, if the owner is a corporate body, of its responsible officers. Such application shall describe briefly the proposed work and shall give such additional information as may be required by the Building Inspector for an intelligent understanding of the proposed work. Such application shall be accompanied by payment of such fees as Council may determine from time to time.

(c) Plans. Application for permits shall be accompanied by such drawings of the proposed work, drawn to scale, including such floor plans, sections, elevations and structural details as the Building Inspector may require.

(d) Plot Diagram. There shall also be filed a plot diagram in a form and size suitable for filing permanently with the permit record, drawn to scale, with all dimensions figured, showing accurately the size and exact location of all proposed new construction, or in the case of demolition, of such construction as is to be demolished, and of all existing buildings, prepared by and signed by a registered surveyor, engineer or architect. The preparation and signature of such plot diagram by a surveyor, engineer or architect registered in the State of Ohio shall only be required for projects whose completion value exceeds five thousand dollars (\$5,000).

(e) Amendments. Nothing in this section shall prohibit the filing of amendments to an application or to a plan or other record accompanying same, at any time before the completion of the work for which the permit was sought. Such amendments, after approval, shall be filed with and be deemed a part of the original application.

(f) Completion of Existing Buildings. Nothing contained in this Zoning Ordinance shall require any change in the plans, construction, size or designated use of a building, for which a valid permit has been issued or lawful approval given before the effective date of this Ordinance. Construction under such permit or approval shall have been started within six months and the ground story framework including structural parts of the second floor shall have been completed within one year and the entire building completed within two years after the effective date of this Ordinance.

(g) Action on Application. It shall be the duty of the Building Inspector to examine applications for permits, within a reasonable time after filing. If, after examination, he finds no objection to the same and it appears that the proposed work will be in compliance with the laws and ordinances applicable thereto, he shall approve such application and issue a permit for the proposed work as soon as practicable. If his examination reveals otherwise, he will reject such application, noting his finding in a report to be attached to the application and delivering a copy to the applicant.

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

(i) Condition of the Permit. All work performed under a permit issued by the Building Inspector shall conform to the approved application and plans, and approved amendments thereof. The location of all new construction as shown on the approved plot diagram, or an approved amendment thereof, shall be strictly adhered to. No person shall reduce or diminish the area of a lot or plot of which a plot diagram has been filed and has been used as the basis for a permit, unless a revised plot diagram showing the proposed change in conditions shall have been filed and approved; provided that this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvement.

(j) Signature to Permit. Every permit issued by the Building Inspector under the provisions of this Zoning Ordinance shall have his signature affixed thereto; but this shall not prevent him from authorizing a subordinate to affix such signature.

(k) Limitation. A permit under which no work is commenced within one year after issuance shall expire by limitation.

(l) Posting of Permit. A copy of the permit shall be kept on the premises open to public inspection during the prosecution of the work and until the completion of same. The Building Inspector may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work to the completion thereof. The Building Inspector shall be given at least twelve hours notice of the starting of work under a permit.

(m) Revocation. The Building Inspector may revoke a permit or approval issued under the provisions of this Zoning Ordinance when he finds there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based. (Ord. 1973-9. Passed 12-17-73.)

1127.02 CERTIFICATE OF OCCUPANCY.

(a) Required. No building shall be occupied before a Certificate of Occupancy has been issued. Certificate of Occupancy for a new building or the reconstruction or alteration of an existing building shall be applied for coincident with the application for a building permit and such Certificate shall be issued within three days after the request for same shall have been made in writing to the Building Inspector after the erection or alteration of such building or part thereof shall have been completed, in conformity with the provisions of these regulations. Pending the issuance of a regular certificate, a temporary certificate of occupancy may be issued by the Building Inspector for a period not exceeding one year, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificate shall not be construed as in way altering the respective rights, duties or obligations of the owners or of the tenants relating to the use or occupancy of the premises or any other matter covered by these regulations, and such temporary certificate shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants.

(b) Certificate of Occupancy for Land. Certificate of Occupancy for the use of vacant land or the change in the character of the use of land as herein provided, shall be applied for before any such land shall be occupied or used, and a Certificate of Occupancy shall be issued within three days after the application has been made, provided such use is in conformity with the provisions of these regulations.

(c) Content. Certificate of Occupancy shall state that the building or proposed use of a building or land complies with all the building and health laws and ordinances and with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the Building Inspector and copies shall be furnished, on request, to any person having a proprietary or tenancy interest in the building affected. No fee shall be charged for a Certificate of Occupancy.

(d) Certificate of Occupancy for Nonconforming Uses. A Certificate of Occupancy shall be required of all nonconforming uses. Applications for such certificate for nonconforming uses shall be filed within twelve months from the effective date of this Zoning Ordinance.

(e) Excavation Permit. No permit for excavation for any building shall be issued before application has been made for Certificate of Occupancy.

(Ord. 1973-9. Passed 12-17-73.)

1127.03 FEES.

A fee of ten dollars (\$10.00) shall be paid to the Village for each application for a variance or conditional use. The fee shall be nonreturnable, regardless of the approval or denial of such application. (Ord. 1973-9. Passed 12-17-73.)

CHAPTER 1129

Board of Zoning Appeals

1129.01 Creation; meetings.

1129.02 Appeals.

1129.03 Notice of hearings.

1129.04 Decisions.

1129.05 Powers.

CROSS REFERENCES

Appeals from zoning decisions - see Ohio R.C. 713.11

Fence approval required - see P. & Z. 1183.05
Appeal of denial of fence permit - see P. & Z. 1183.09
Power to grant sign variances - see P. & Z. 1189.11

1129.01 CREATION; MEETINGS.

(a) Creation. A Board of Zoning Appeals is hereby created. Such Board shall consist of five members of Council, excluding the president pro temp. The terms of all members shall be one year commencing the first day of January of each year. Each member shall serve until his/her successor is appointed and qualified.

(Ord. 2000-02. Passed 2-14-00.)

(b) Organization. The Board of Zoning Appeals shall organize and adopt rules in accordance with the provisions of this Zoning Ordinance. At the first meeting of each year, the Board shall elect a chairman, vice-chairman and secretary. The secretary need not be a member of the Board. Meetings of the Board shall be held at the call of the chairman or three members of the Board. The chairman, or in his absence, the acting chairman, may administer oaths, if necessary, and the Board shall be open to the public and all business of the Board shall be transacted at such meetings. The Board may go into executive session, but not vote on any case before it. The Board shall keep the minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board, and shall be a public record.

(c) Quorum. Three members of the Board of Zoning Appeals shall constitute a quorum. The Board shall act by resolution, and the concurring vote of three members of the Board shall be necessary to reverse any order or determination of the Building and Zoning Inspector, or to decide in favor of an applicant in any matter of which the Board has original jurisdiction under this Zoning Ordinance or to grant a variance from the requirements stipulated in this Ordinance.

(d) Applications for Variance. An application for a variance, or an appeal from any decision of the Building and Zoning Inspector, may be taken by any property owner, including a tenant, governmental officer, department, board, or authorized agent of a property owner, such application shall be filed with the Building and Zoning Inspector, Board chairman or Board secretary, on a form prescribed for that purpose by the Board of Zoning Appeals who shall transmit the same to the Board. A fee as established in Section 1127.03 shall accompany any application for a variance. (Ord. 1986-06. Passed 6-9-86.)

1129.02 APPEALS.

(a) An appeal to the Board may be taken by any person aggrieved or by any officer of the Municipality affected by any decision of the Building and Zoning Inspector. Such appeals shall be taken within twenty days after the decision, by filing with the Building and Zoning Inspector and with the Board a notice of appeal specifying the grounds thereof. The Building and Zoning Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(b) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Building and Zoning Inspectors shall certify to the Board of Zoning Appeals after the notice of appeal shall have been filed with it that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril of life or property. In such a case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of competent jurisdiction after notice to the officer from whom the appeal is taken and on due cause shown.

(c) The Board, may in conformity with the provisions of this Zoning Ordinance, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made and to that end, shall have all powers of the Building and Zoning Inspector from whom the appeal is taken. A fee established by Council shall accompany any application for appeal.

(d) An appeal from the decision of the Board of Zoning Appeals in any matter in which the Board has original or appellate jurisdiction may be taken to the Court of Common Pleas of Carroll County, Ohio, or such other court of competent jurisdiction as may be provided for by law. (Ord. 1986-06. Passed 6-9-86.)

1129.03 NOTICE OF HEARINGS.

(a) When a notice of appeal has been filed in proper form with the Board of Zoning Appeals, the secretary shall immediately place such request for appeal upon the calendar for hearing, and shall cause notice stating the time, place and object of the hearing to be served personally or by mail addressed to the parties making the request or appeal, at least five days prior to the date of the scheduled hearing.

(b) All notices shall be sent to addresses shown on the current tax duplicate of the County Auditor. Upon the day for hearing of any application or appeal, the Board of Zoning Appeals may adjourn the hearing in order to permit the obtaining of additional information or to cause such further notice as it deems proper to be served upon such other property owners as it decides may be substantially interested in such application or appeal, and, if the time and place of the continued hearing be publicly announced at the time of adjournment, no further notice shall be required. At this hearing, any party may appear in person or by attorney.

(Ord. 1986-06. Passed 6-9-86.)

1129.04 DECISIONS.

The Board of Zoning Appeals shall decide all applications for variances and appeals within thirty days after the final hearing thereon. A certified copy of the Board's decision shall be transmitted to all parties in interest. Such decision shall be binding upon the Building and Zoning Inspector and observed by him and he shall incorporate the terms and conditions of such decision in the permit to the applicant or appellant, whenever a permit is authorized by the Board. (Ord. 1986-06. Passed 6-9-86.)

1129.05 POWERS.

The powers of the Board are:

(a) To Interpret the Zoning Ordinance, Being:

- (1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Building and Zoning Inspector in the enforcement of this Ordinance.
- (2) To permit the extension of a district where the boundary line of a district divides a lot held in a single ownership at the time of the passage of this Ordinance.
- (3) To interpret the provisions of these regulations in such a way as to carry out the intent and purpose of the plan, as shown upon the Zoning District Map fixing the several districts accompanying and made a part of this Ordinance where the street layout on the ground varies from the street layout as shown on the Zoning District Map.

(b) To Permit the Following Two Exceptions:

- (1) Use of premises for public utility and railroad purposes or for a radio or television tower or broadcasting station.
- (2) Reconstruction of a nonconforming building that would otherwise be prohibited by Chapter 1191.

(c) To Permit the Following Variances:

- (1) To authorize upon appeal, where by reason of exceptional narrowness, shallowness, or shape or exceptional topographic conditions or other extraordinary situations or conditions of a lot, the strict application of the terms of this Zoning Ordinance would result in peculiar and exceptional difficulties or undue hardship upon the owner thereof, to authorize a variance from such strict application to relieve such difficulties or hardships provided such relief may be granted without substantial detriment to the public health, safety and welfare and without substantially impairing the intent of the Zoning Ordinances of the Village and providing further that no variance shall be granted unless the Board of Zoning Appeals finds that the following conditions exist:
 - A. The special circumstances or conditions applied by the Board to the land in question are peculiar to such lot or property and do not generally apply to other land or buildings in the vicinity.
 - B. The granting of the application is necessary for the preservation and enjoyment of substantial property rights and not merely to serve as a convenience to the applicant.
 - C. Grant temporary permits for buildings and uses that do not conform to the regulations herein prescribed. The permissible time period for such uses shall be set by the Board of Zoning Appeals. No extension of time, once granted, will be permitted, unless a hardship can be established.
 - D. Permit the extension of a building or use into a more restricted district immediately adjacent thereto, but not more than fifty feet beyond the boundary line of the district in which such building or use is authorized.
 - E. Permit such modification of the yard, parking or lot area or width regulations as may be necessary to secure the appropriate improvement of a parcel of land that is too small to be appropriately improved without such modification, or is adjacent to buildings that do not conform to the general restrictions applicable to their location.
 - F. The authorizing of a variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas, or in any way impair the health, safety, convenience or general welfare of the inhabitants of the Village.
 - (2) The Board may call upon the various officers and departments of the Village for assistance in the performance of its duties and it shall be the duty of such departments and officers to render such assistance to the Board as may be reasonably required.
 - (3) A decision of the Board shall not be interpreted or construed in such manner as to create a precedent requiring the Board to act in the same or similar manner in future applications or appeals.
 - (4) An appeal from the decision of the Board of Zoning Appeals in any matter in which the Board has original or appellate jurisdiction may be taken to the Court of Common Pleas of Carroll County, Ohio or such other court of competent jurisdiction as may be provided for by law.
- (d) To Grant Conditional Use Permits. To hear and decide upon applications for conditional use permits specifically listed in the district regulations of this Zoning Ordinance. Before authorizing the issuance of such a conditional use permit, the Board of Zoning Appeals may impose, if necessary, such conditions as will, in the Board's judgment, insure that:
- (1) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or general welfare.
 - (2) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the neighborhood.
 - (3) The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
 - (4) Adequate utilities, access roads, drainage and/or other necessary facilities will be provided.
 - (5) Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (Ord. 1986-06. Passed 6-9-86.)

CHAPTER 1131

Zoning District Map

1131.01 Zoning District Map.

CROSS REFERENCES

Zoning Ordinance amendments - see P. & Z. Ch. 1133

Zoning districts established - see P. & Z. 1141.01

1131.01 ZONING DISTRICT MAP.

The boundaries of the zoning districts are shown upon the map attached to original Ordinance 1973-9 and made a part hereof, which map is designated as the "Zoning District Map". The district map and all notations, references and other information shown thereon are a part of these regulations and have the same force and effect as if the district map and all the notations, references and other information shown thereon were all fully set forth or described herein, the original of which is properly attested and is on file with the Clerk of the Village.

(Ord. 1973-9. Passed 12-17-73.)

CHAPTER 1133

Amendments

1133.01 Amendment by Council.

CROSS REFERENCES

Variances - see P. & Z. 1129.05(c)

Zoning District Map - see P. & Z. Ch. 1131

Districts generally - see P. & Z. Ch. 1141

1133.01 AMENDMENT BY COUNCIL.

- (a) Upon their own action or receipt of application from owner or lessee of land or resolution by the Planning Commission, Council may

initiate a proposed change or amendment of this Zoning Ordinance or the Zoning District Map by transmitting such request, application or resolution to the Commission for study and report. The Planning Commission shall have not less than thirty days in which to consider and report upon such proposed ordinance but if no report is received from the Commission in sixty days, it may be assumed that the Commission has approved the amendment. The report of the Commission shall be transmitted to Council, at which time Council shall set a date for a public hearing upon the proposed change or amendment.

(b) In setting the date of such a public hearing, Council shall give at least thirty days notice thereof. Notice setting forth the time and place of such public hearing and the nature of the proposed change or amendment shall be given by Council in a newspaper of general circulation in the Village.

(c) If the ordinance, measure or regulation 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-Treasurer, by first class mail, at least twenty days before the date of the public hearing to the owners of property within and contiguous to and directly across the street from such parcel or parcels to the addresses of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by Council, and such list of names and addresses shall be supplied by the applicant to the Clerk-Treasurer at the time of filing.

(d) During such thirty days the text or copy of the text of such ordinance, measure or regulation, together with the maps or plans or copies thereof forming part of or referred to in such ordinance, measure, or regulation and the maps, plans and reports submitted by the Planning Commission, board or offices shall be on file, for public examination, in the office of the Clerk-Treasurer or in such other office as is designated by Council.

(e) Before any action shall be taken as provided in this section, the party or parties proposing or recommending a change in the district regulations or district boundaries shall make payment of such fees as Council may determine from time to time. Under no condition shall such sum or any part thereof be refunded for failure of such change to be adopted by Council. (Ord. 1973-9. Passed 12-17-73.)

TITLE FIVE - Zoning Districts

- Chap. 1141. Districts Generally.
- Chap. 1143. RU Rural District.
- Chap. 1145. RC Conservation District.
- Chap. 1147. RS-1, RS-2 and RS-3 Residential Districts.
- Chap. 1149. RD Residential District.
- Chap. 1151. RA Residential District.
- Chap. 1153. B-1 General Business District.
- Chap. 1155. B-2 Highway Business District.
- Chap. 1157. B-3 Central Business District.
- Chap. 1159. I Industrial District.

CHAPTER 1141

Districts Generally

- 1141.01 Village divided into districts.**
- 1141.02 Uncertainty as to district boundaries.**
- 1141.03 Vacated street or alley.**
- 1141.04 Annexation of territory.**

CROSS REFERENCES

District defined - see P. & Z. 1121.01(a)(24)
Zoning District Map - see P. & Z. 1131.01
Supplementary district regulations - see P. & Z. Ch. 1171

1141.01 VILLAGE DIVIDED INTO DISTRICTS.

(a) The Village is hereby divided into three types of districts:

- R Districts - Residential
- B Districts - Business
- I Districts - Industrial

(b) The three types of districts are further divided into the following specific districts:

RU Rural	RS-3 Residential	B-2 Business
RC Conservation	RD Residential	B-3 Business
RS-1 Residential	RA Residential	I Industrial
RS-2 Residential	B-1 Business	

(Ord. 1973-9. Passed 12-17-73.)

1141.02 UNCERTAINTY AS TO DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning District Map, the following rules apply:

- (a) The district boundaries are either streets or alleys, unless otherwise shown and where the districts designated on the Zoning District Map accompanying and made a part of this Zoning Ordinance are bounded approximately by street or alley lines, the street or alley shall be construed to be the boundary of the district.
- (b) Where the district boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the Zoning District Map accompanying and made a part of this Zoning Ordinance are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.
- (c) In unsubdivided property, the district boundary lines on the map accompanying and made a part of this Zoning Ordinance shall be determined by use of the scale appearing on the Zoning District Map.

(Ord. 1973-9. Passed 12-17-73.)

1141.03 VACATED STREET OR ALLEY.

Whenever any street, alley or other public way is vacated by official action of Council, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.
(Ord. 1973-9. Passed 12-17-73.)

1141.04 ANNEXATION OF TERRITORY.

(a) Territory annexed to the Village after the effective date of this Zoning Ordinance shall continue to be governed by the zoning regulations which governed the territory annexed immediately prior to the annexation, as enacted by a Board of County Commissioners under Ohio R.C. 303.01 to 303.25, or enacted by a Board of Township Trustees under Ohio R.C. 519.02 to 519.25, as the case may be, until Council shall either officially adopt the existing zoning regulations of such county or township or new regulations for such territory. (Ord. 1973-9. Passed 12-17-73.)

(b) All territory annexed shall, at the time of acceptance by Council, set forth therein a provision providing for the zone designation by which such territory shall be designated.

(c) Any such territory not otherwise designated at the time of annexation, shall be placed in the RS-1 Residential District until otherwise changed by ordinance.

(d) When the initial request for annexation by the petitioner, or his agent, is received at the office of the Clerk-Treasurer, it shall be the duty of the Clerk-Treasurer to advise the petitioner, or his agent, that they may choose the zone designation they wish the Planning Commission to consider. If the petitioner, or his agent, requests a zone designation, other than RS-1 Residential District, it shall be in the form of a letter to Council.

(e) At such times as any annexation proceeding is certified to the Clerk-Treasurer after having been approved by the County Commissioners, notice of the same shall be given to the Planning Commission and such Commission shall act upon the same, in the same manner as any zone change request. Notice to the Planning Commission shall be made by the Clerk-Treasurer within ten days of the receipt of the resolution of the County Commissioners and the Planning Commission shall proceed as though a zone request had been filed under Chapter 1133. (Ord. 1979-6. Passed 5-14-79.)

CHAPTER 1143

RU Rural District

1143.01 Permitted uses.

1143.02 Conditional uses.

CROSS REFERENCES

Height requirements - see P. & Z. 1173.01

Minimum yard requirements - see P. & Z. 1175.01

Minimum lot area and width - see P. & Z. 1177.01

Lot area and width exceptions - see P. & Z. 1177.02(d)

Accessory buildings and uses - see P. & Z. 1181.02

Signs - see P. & Z. 1189.05

1143.01 PERMITTED USES.

In the following RU District, a building or premises shall be used only for the following purposes:

Permitted Uses.

Agricultural activity.

Church.

Golf course, except miniature course or driving range.

Greenhouse or nursery.

Large scale residential development in accordance with the provisions of Chapter 1185.

Park or forest preserve.

Public school, elementary and high, or private school having a curriculum equivalent to a public elementary or public high school and having no rooms regularly used for housing or sleeping purposes.

Roadside stand for the display or sale of agricultural products raised on the premises.

Single-family dwelling.

Home occupation in accordance with definition in Section 1121.01(a)(39).

(Ord. 1979-7. Passed 6-12-79.)

1143.02 CONDITIONAL USES.

The following are the conditional uses in the RU District:

Conditional Uses.

Airport.

Automobile service station, motel, restaurant, garage, farm implement sales and services, and food store when located on county highways.

Extraction of coal, sand or gravel.

Hospital, nursing home and educational, religious and philanthropic institution on sites of not less than five acres.

Manufactured home park in accordance with the provisions of Chapter 1187.

New cemetery on site of not less than twenty acres or enlargement of existing cemetery.

Privately operated outdoor recreational facility, including riding stable, lake, swimming pool, tennis court and golf course on site of not less than five acres.

Public building erected by any governmental agency.

(Ord. 1979-7. Passed 6-12-79.)

CHAPTER 1145

RC Conservation District

1145.01 Permitted uses.

1145.02 Conditional uses.

CROSS REFERENCES

Supplementary district regulations - see P. & Z. Ch. 1171
Maximum height limits - see P. & Z. 1173.01
Minimum yard requirements - see P. & Z. 1175.01
Lot area and width - see P. & Z. 1177.01
Accessory buildings and uses - see P. & Z. 1181.02
Signs - see P. & Z. 1189.05

1145.01 PERMITTED USES.

The following are the permitted uses in the RC District:

Permitted Uses.

Agricultural activity.
Single-family dwelling.
Park or forest preserve.
Golf course.
Cemetery.
Home occupation in accordance with Section 1121.01(a)(39).
(Ord. 1979-7. Passed 6-12-79.)

1145.02 CONDITIONAL USES.

The following are the conditional uses in the RC District:

Conditional Uses.

Extraction of coal, sand or gravel.

Privately operated outdoor recreational facility, including riding stable, lake, swimming pool, tennis courts and golf course on site of not less than five acres.

Motel, resort and incidental facilities, including swimming pool, restaurant.

incidental retail sales and services and personal services on site of not less than one acre provided they are protected from flooding.

Guest ranch, hunting and fishing resort, ski resort and incidental facilities, including swimming pool, restaurant, incidental retail sales and services and personal services, on site of not less than twenty acres provided they are protected from flooding.

Conditional Uses (Cont.)

Marina, yacht club, boat house or bait shop.

Public building erected by any governmental agency or nonprofit organization provided they are protected from flooding.
(Ord. 1979-7. Passed 6-12-79.)

CHAPTER 1147

RS-1, RS-2 and RS-3 Residential Districts

1147.01 Permitted uses.

1147.02 Conditional uses.

CROSS REFERENCES

Supplementary district regulations - see P. & Z. Ch. 1171
Height regulations - see P. & Z. 1173.01(a)
Minimum yard requirements - see P. & Z. 1175.01
Minimum lot area and width - see P. & Z. 1177.01
Accessory buildings and uses - see P. & Z. 1181.02
Signs - see P. & Z. 1189.05

1147.01 PERMITTED USES.

The following are permitted uses in the RS-1, RS-2 and RS-3 Districts:

Permitted Uses.

Single-family dwelling.
Church.
Golf course, except miniature course and driving tees operated for commercial purposes.
Large-scale residential development in accordance with the provisions of Chapter 1185.
Public park or playground.

Public school, elementary and high, or private school having a curriculum equivalent to a public elementary or public high school and having no rooms regularly used for housing or sleeping purposes.

Home occupation in accordance with Section 1121.01(a)(39).

Manufactured home park in accordance with the provisions of Chapter 1187 in the RS-3 District only.
(Ord. 1979-7. Passed 6-12-79.)

1147.02 CONDITIONAL USES.

The following are conditional uses for the RS-1, RS-2 and RS-3 Districts:

Conditional Uses.

Greenhouse or nursery.

Hospital, nursing home and educational, philanthropic or religious institution on site of not less than five acres, provided not more than fifty percent (50%) of the site area may be occupied by buildings, and provided further that the building shall be set back from all required yard lines an additional foot for each foot of building height.

Conditional Uses (Cont.)

Nursery, prekindergarten, kindergarten, play, special and other private school.

Parking lot (total area) located within 200 feet of a boundary of a B or I District.
Private recreational facility where buildings do not occupy more than ten percent (10%) of the site area.
Privately operated lake, swimming pool or tennis court on site of not less than five acres.
Public building erected by any governmental agency.
Two-family home in those locations where on the effective date of this Zoning Ordinance more than forty percent (40%) of the frontage on one side of a street between two intersecting streets is used for two-family homes or two-family homes and multiple dwellings.
(Ord. 1979-7. Passed 6-12-79.)

CHAPTER 1149

RD Residential District

1149.01 Permitted uses.

1149.02 Conditional uses.

CROSS REFERENCES

Supplementary district regulations - see P. & Z. Ch. 1171
Height regulations - see P. & Z. 1173.01(a)
Minimum yard requirements - see P. & Z. 1175.01
Lot area and width - see P. & Z. 1177.01
Accessory buildings and uses - see P. & Z. 1181.02
Signs - see P. & Z. 1189.05

1149.01 PERMITTED USES.

The following are permitted uses in the RD District:

Permitted Uses.

Any permitted uses of the RS Districts.

Two-family dwelling.

Home occupation in accordance with Section 1121.01(a)(39).

Manufactured home park in accordance with the provisions of Chapter 1187.

(Ord. 1979-7. Passed 6-12-79.)

1149.02 CONDITIONAL USES.

The following are conditional uses in the RD District:

Conditional Uses.

Greenhouse or nursery.

Hospital or sanitarium except criminal, mental or animal hospital.

Nursing, rest or convalescent home.

Parking lot (total area) located within 200 feet of a boundary of a B or I District.

Private school.

Public building erected by any governmental agency.

Religious, educational and eleemosynary institution of a philanthropic nature, but not a penal or mental institution.

Row house, town house and three or four family house where the area being developed is one-half acre in area or larger.

(Ord. 1979-7. Passed 6-12-79.)

CHAPTER 1151

RA Residential District

1151.01 Permitted uses.

1151.02 Conditional uses.

CROSS REFERENCES

Supplementary district regulations - see P. & Z. Ch. 1171
Height regulations - see P. & Z. 1173.01(b)
Yard requirements - see P. & Z. 1175.01, 1175.02
Lot area and width - see P. & Z. 1177.01
Accessory buildings and uses - see P. & Z. 1181.02, 1181.03
Signs - see P. & Z. 1189.05

1151.01 PERMITTED USES.

The following are permitted uses in the RA District:

Permitted Uses.

Any permitted use of the RD District.

Multiple dwelling.

Home occupation in accordance with Section 1121.01(a)(39).

Manufactured home park in accordance with the provisions of Chapter 1187.

(Ord. 1979-7. Passed 6-12-79.)

1151.02 CONDITIONAL USES.

The following are conditional uses in the RA District:

Conditional Uses.

Hospital or sanitarium, except penal, mental or animal hospital.

Medical clinic.

Nursing, rest or convalescent home.

Parking lot (total area) located within 200 feet of a boundary of an RD, B or I District.
Private club, fraternity, sorority or lodge, except when the chief activity of which is a service customarily carried on as a business.
Private school.
Public building erected by any governmental agency.
Religious, educational and eleemosynary institution of a philanthropic nature, but not a penal or mental institution.
Rooming house or boarding house.
Tourist home when located on a major street as designated on the Major Street Plan of the Village's Comprehensive Plan.
(Ord. 1979-7. Passed 6-12-79.)

CHAPTER 1153

B-1 General Business District

1153.01 Permitted uses.

1153.02 Conditional uses.

CROSS REFERENCES

Supplementary district regulations - see P. & Z. Ch. 1171

Height regulations - see P. & Z. 1173.01(b)

Yard requirements - see P. & Z. 1175.01, 1175.02

Lot area and width - see P. & Z. 1177.01

Accessory buildings and uses - see P. & Z. 1181.04

Signs - see P. & Z. 1189.06

1153.01 PERMITTED USES.

The following are permitted uses in the B-1 District:

Permitted Uses.

Any permitted use of the RA Residential District.

Bank.

Dressmaking, tailoring, shoe repairing, repair of household appliances and bicycles, dry cleaning and pressing, and bakery with sale of bakery products on the premises and other uses of a similar character.

Funeral home or mortuary.

Hotel or motel.

Medical clinic.

Office or office building.

Personal service use, including barber shop, beauty parlor, photographic or artists' studios, taxicab, newspaper or telegraphic service station, dry cleaning receiving station, restaurant, and other personal service uses of similar character.

Retail store, including florist shop and greenhouse in connection with such shop, but there shall be no slaughtering of animals or poultry on the premises of any retail store.

(Ord. 1979-7. Passed 6-12-79.)

1153.02 CONDITIONAL USES.

The following are conditional uses in the B-1 District:

Conditional Uses.

Residence, when located on the second story or above.

Automobile service station.

Commercial garage or automobile repair shop.

(Ord. 1979-7. Passed 6-12-79.)

CHAPTER 1155

B-2 Highway Business District

1155.01 Permitted uses.

1155.02 Conditional uses.

CROSS REFERENCES

Supplementary district regulations - see P. & Z. Ch. 1171

Height regulations - see P. & Z. 1173.01

Yard requirements - see P. & Z. 1175.01, 1175.02

Lot area and width - see P. & Z. 1177.01

Accessory buildings and uses - see P. & Z. 1181.04

Signs - see P. & Z. 1189.06

1155.01 PERMITTED USES.

The following are permitted uses in the B-2 District:

Permitted Uses.

Any permitted use of the B-1 General Business District.

Automobile sales and service.

Farm implements, agricultural service establishment including fee, bottle gas.

Gift stores.

Lumber yard.

Medical clinic.

Used car, trailer or boat sales or storage lot.
(Ord. 1973-9. Passed 12-17-73.)

1155.02 CONDITIONAL USES.

The following are conditional uses in the B-2 District:
Conditional Uses.

Lumber yard.

Truck or bus terminal.

Veterinarian, animal hospital or kennel.

(Ord. 1973-9. Passed 12-17-73.)

CHAPTER 1157

B-3 Central Business District

1157.01 Permitted uses.

CROSS REFERENCES

Height regulations - see P. & Z. 1173.01

Yard requirements - see P. & Z. 1175.01, 1175.02

Lot area and width - see P. & Z. 1177.01

Off-street parking spaces prohibited - see P. & Z. 1179.01

Accessory buildings and uses - see P. & Z. 1181.04

Signs - see P. & Z. 1189.06

1157.01 PERMITTED USES.

The following are permitted uses in the B-3 District:

Permitted Uses.

Any permitted use of the B-1 General Business District.

Bottling works.

Bowling alley or billiard parlor.

Business or commercial school.

Dancing or music academy.

Dressmaking, tailoring, shoe repairing, repair of household appliances and bicycles, dry cleaning and pressing, bakery and other uses of a similar character.

General service and repair establishments, including dyeing or cleaning works or laundry, plumbing and heating, printing, painting, upholstering or appliance repair.

Theater.

Wholesale establishment or warehouse in a completely enclosed building.

(Ord. 1973-9. Passed 12-17-73.)

CHAPTER 1159

I Industrial District

1159.01 Permitted uses.

1159.02 Conditional uses.

CROSS REFERENCES

Supplementary district regulations - see P. & Z. Ch. 1171

Height regulations - see P. & Z. 1173.01(b)

Yard requirements - see P. & Z. 1175.01, 1175.02

Minimum lot area and width - see P. & Z. 1177.01

Accessory buildings and uses - see P. & Z. 1181.04

Signs - see P. & Z. 1189.06

1159.01 PERMITTED USES.

The following are permitted uses in the I District:

Permitted Uses.

Any use permitted in the B-3 Central Business District, except that no dwelling other than that for a resident watchman or caretaker employed on the premises shall be permitted.

Manufacture of boxes, crates, furniture, baskets and other wood products of a similar nature.

Manufacture or assembly of medical and dental equipment, drafting, optical and musical instruments, watches, clocks, toys, games and electrical or electronic apparatus.

Manufacture or storage of food products, including beverage blending or bottling, bakery products, candy manufacture, fruit and vegetable processing and canning, packing and processing of meat and poultry products, but not distilling of beverages or slaughtering of poultry or animals.

Compounding of cosmetics, toiletries, drugs and pharmaceutical products.

Wholesale merchandising or storage warehouse.

Generally those manufacturing uses similar to those listed above which do not create any more danger to health and safety in surrounding areas and which do not create any more offensive noise, vibration, smoke, dust, odor, heat, or glare than that generally associated with industries of the type specifically permitted.

(Ord. 1973-9. Passed 12-17-73.)

1159.02 CONDITIONAL USES.

The following are conditional uses in the I District:

Conditional Uses.

Manufacturing processes conducted wholly within an enclosed building consisting in whole or in part of cutting, forging, stamping, casting, extruding, drilling, rolling, welding, brazing, soldering, sawing, cleaning, sand or shot blasting, grinding, enameling, painting, galvanizing, finishing, heat treating or machining.

Making of metal alloy products from brass, bronze, pewter, lead or aluminum including smelting or founding.

Manufacture or assembly of bolts, nuts, screws, and rivets. ornamental iron products, firearms, tools, dies, machinery and hardware products, sheet metal or steel products.

Manufacturing uses similar to those listed above.

(Ord. 1973-9. Passed 12-17-73.)

TITLE SEVEN - Zoning Standards and Special Provisions.

Chap. 1171. Supplementary District Regulations.

Chap. 1173. Height Regulations.

Chap. 1175. Yard Regulations.

Chap. 1177. Density Regulations.

Chap. 1179. Off-Street Parking and Loading.

Chap. 1181. Accessory Buildings and Uses.

Chap. 1183. Fences.

Chap. 1185. Large-Scale Residential Developments.

Chap. 1187. Manufactured Homes.

Chap. 1189. Signs.

Chap. 1191. Nonconforming Uses.

CHAPTER 1171

Supplementary District Regulations

1171.01 Buildings to comply with district regulations.

1171.02 Density and yard requirements as minimum.

1171.03 Buildings to be on lots; parking.

1171.04 Condominiums and cooperative property.

1171.05 Manufactured homes to be in parks or courts.

CROSS REFERENCES

Building permit - see P. & Z. 1127.01

Yard regulations - see P. & Z. Ch. 1175

Density regulations - see P. & Z. Ch. 1177

Manufactured homes - see P. & Z. Ch. 1187

1171.01 BUILDINGS TO COMPLY WITH DISTRICT REGULATIONS.

(a) Buildings shall only be erected, converted, enlarged, reconstructed or structurally altered, or land shall only be used for a purpose permitted in the district in which the building or land is located.

(b) Buildings shall be erected, converted, enlarged, reconstructed or structurally altered only in conformity with the height limit herein established for the district in which the building is located.

(c) Buildings shall be erected, converted, enlarged, reconstructed or structurally altered only in conformity with the area regulations of the district in which the building is located. (Ord. 1973-9. Passed 12-17-73.)

1171.02 DENSITY AND YARD REQUIREMENTS AS MINIMUM.

The density and yard requirements of this Zoning Ordinance are minimum regulations for each and every building existing at the effective date of these regulations and for any building hereafter erected or structurally altered. Land required for yards or other open spaces about an existing building or any building hereafter erected or structurally altered shall not be considered a yard or lot area for more than one building.

(Ord. 1973-9. Passed 12-17-73.)

1171.03 BUILDINGS TO BE ON LOTS; PARKING.

(a) Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on a lot except as otherwise provided in this Zoning Ordinance.

(b) Buildings shall only be erected or structurally altered to the extent specifically provided hereinafter in conformity with the off-street parking and loading requirements of this Zoning Ordinance. (Ord. 1973-9. Passed 12-17-73.)

1171.04 CONDOMINIUMS AND COOPERATIVE PROPERTY.

Cooperative, condominiums and all other forms of property ownership do not affect the provisions of these regulations and all requirements shall be observed as though the property were under single ownership.

(Ord. 1973-9. Passed 12-17-73.)

1171.05 MANUFACTURED HOMES TO BE IN PARKS OR COURTS.

All inhabited manufactured homes or travel trailers shall be located in a manufactured home park or travel trailer court that has received a conditional use permit as required by Chapter 1187. No manufactured home or travel trailer outside an approved manufactured home park or travel trailer court shall be connected to utilities except those manufactured homes or travel trailers being offered for sale and not inhabited.

(Ord. 1973-9. Passed 12-17-73.)

CHAPTER 1173

Height Regulations

1173.01 Maximum requirements.

1173.02 Exceptions.

1173.03 Airports.

CROSS REFERENCES

Building height defined - see P. & Z. 1121.01(a)(12)

Swimming pool fence height - see P. & Z. 1183.06

Traffic and directional sign height - see P. & Z. 1189.03

Freestanding ground sign height - see P. & Z. 1189.04(c)

1173.01 MAXIMUM REQUIREMENTS.

Maximum height limits established for buildings and structures are as follows:

(a) Thirty-five feet in the RU, RC, RS and RD Districts.

(b) Forty-five feet in the RA, B and I Districts.

(Ord. 1973-9. Passed 12-17-73.)

1173.02 EXCEPTIONS.

The above height limits may be exceeded in the following instances:

(a) Public, semi-public or public service buildings, hospitals, institutions, agricultural buildings, or schools when permitted in a district, may be erected to a height not exceeding 110 feet, and churches and temples may be erected to a height not exceeding seventy-five feet if the building is set back from each yard line at least one foot for each foot of additional building height above the height limit otherwise permitted in the district in which the building is built.

(b) Television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, stacks, conveyors and flag poles may be erected to such height as may be authorized by Council.

(c) Buildings in the RA, B-3 and I Districts may be increased in height one foot for each foot the building is set back from all yard lines up to a maximum height of 100 feet, provided that the gross floor area provided, exclusive of enclosed garages, does not exceed the number of square feet of land area of the lot on which the building is placed.

(Ord. 1973-9. Passed 12-17-73.)

1173.03 AIRPORTS.

The following special regulations shall apply to any land airport, other than a helicopter landing facility, owned and operated by a public agency:

(a) Within the air space above the approach zone to each end of a runway designed to be used for instrument landings no building or structure shall be erected or altered to project above a plane with a slope of one (vertical) to fifty (horizontal) projected from a point 200 feet beyond the end of the runway for a distance of 10,000 feet, such plane to be in the shape of a symmetrical trapezoid 1,000 feet in width at its lowest point and 4,000 feet in width at its highest point; combined with a second plane with a slope of one (vertical) to forty (horizontal) extending from the upper edge of the first plane for an additional distance of 40,000 feet, such plane to be in the shape of a symmetrical trapezoid 4,000 feet in width at its lowest point and 16,000 feet in width at its highest point.

(b) Within the air space above the approach zone to each end of a runway not designed to be used for instrument landings, no building or structure shall be erected or altered to project above a plane with a slope of one (vertical) to forty (horizontal) projected from a point 200 feet beyond the end of the runway for a distance of 10,000 feet, such plane to be a symmetrical trapezoid (*) feet wide at its lowest point and (*) feet wide at its highest point.

(c) Within the established transition zones adjacent to each instrument and non-instrument runway and approach zone, no building or structure shall be erected or altered to project above a plane with a slope of one (vertical) to seven (horizontal). Transition zones extend outward and upward from a line (*) feet on either side of the center line of noninstrument runways for the length of such runway plus 200 feet on each end; and 500 feet on either side of the center line of instrument runways, for the length of such runway plus 200 feet on each end; to a height 150 feet above the elevation of the airport reference point. In addition, transition zones are established adjacent to both instrument and noninstrument approach zones which flare outward and upward symmetrically along the entire length of each approach zone to where they intersect the surfaces of the horizontal and conical zones.

(d) Within (**) feet from the established airport reference point, no building or structure shall be erected or altered to project above a horizontal plane 150 feet above the established airport elevation. This horizontal zone does not include the approach or transition zones.

(*) The applicable distance in feet must be based on runway lengths as set forth in Section 77.27 of Part 77 of the Federal Aviation Regulations.

(**) The applicable distance in feet must be based on runway lengths as set forth in Section 77.25 of Part 77 of the Federal Aviation Regulations.

(e) Within the conical zone, which commences at the periphery of the horizontal zone and extends outward therefrom a distance of (**) feet, no building or structure shall be erected or altered to project above a plane with a slope of one (vertical) to twenty (horizontal).

(f) Nothing in this subparagraph shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to twenty feet above the surface of the land.

(Ord. 1973-9. Passed 12-17-73.)

CHAPTER 1175

Yard Regulations

1175.01 Minimum yard requirements.

1175.02 Additional requirements.

1175.03 Exceptions.

CROSS REFERENCES

Yard defined - see P. & Z. 1121.01(a)(78)

Density regulations - see P. & Z. Ch. 1177

Fence yard requirements - see P. & Z. 1183.04. 1183.07

Large-scale residential developments - see P. & Z. 1185.01(d)

1175.01 MINIMUM YARD REQUIREMENTS.

The following minimum yards, measured in feet, shall be provided within the districts indicated below:

District	Front Yard	Side Yard	Rear Yard
RU, RC	50	20	50
RS	30	10	30
RD, RA	25	8	25
B-1	25	None	25
B-2	30	None	None
B-3	None	None	None
I	25	None	25

Whenever a lot abuts upon a public alley, one-half of the alley width may be considered as a portion of the required yard. For the purpose of side yard regulations, a two-family dwelling or multiple dwelling shall be considered as one building occupying one lot.

(Ord. 1973-9. Passed 12-17-73.)

1175.02 ADDITIONAL REQUIREMENTS.

The following additional yard requirements shall also be observed:

- (a) On lots fronting on two nonintersecting streets, a front yard must be provided on both streets.
- (b) On corner lots there must be a front yard on both streets. On corner lots that are lots of record the buildable width cannot be reduced to less than twenty-eight feet, except that there shall be a yard along the side street side of such a lot of at least five feet.
- (c) Where a frontage is divided among districts with different front yard requirements, the deepest front yard required shall apply to the entire frontage.
- (d) In the RA, B and I Districts there may be more than one building on a lot provided that the required yards be maintained around the group of buildings.
- (e) There may be two or more related multi-family, hotel, motel, or institutional buildings on a lot; provided that the required yards be maintained around the group of buildings, and buildings that are parallel or that are within forty-five degrees of being parallel be separated by a horizontal distance that is at least equal to the height of the highest building.
- (f) Those parts of existing buildings that violate yard regulations may be repaired and remodeled, but not reconstructed or structurally altered.
- (g) Required front yards shall be devoted entirely to landscaped area except for guest parking and the necessary paving of driveways and sidewalks to reach parking or loading areas in the side or rear yard.
- (h) Where an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
- (i) The minimum width of side yards for schools, libraries, churches, community buildings and other public and semi-public buildings in residential districts shall be twenty-five feet, except where a side yard is adjacent to a commercial or industrial district, in which case, the width of that yard shall be as required in the district in which the building is located.
- (j) No sign, fence, wall, shrub or other obstruction to vision exceeding three feet in height above the established street grade, shall be erected, planted or maintained within the area of a corner lot that is included between the lines of the intersecting streets and a straight line connecting them at points thirty feet distant from the intersection of the street lines.

(Ord. 1973-9. Passed 12-7-73.)

1175.03 EXCEPTIONS.

The following exceptions may be made to the yard requirements:

- (a) Where, on the effective date of these regulations, forty percent (40%) or more of a frontage was occupied by two or more buildings, then the front yard is established in the following manner.
 - (1) Where the building farthest from the street provides a front yard not more than ten feet deeper than the building closest to the street, then the front yard for the frontage is and remains an average of the then existing front yards.
 - (2) Where subsection (a) (1) hereof is not the case and a lot is within 100 feet of a building on each side, then the front yard is a line drawn from the closest front corners of these two adjacent buildings.
 - (3) Where neither subsection (a) nor subsection (b) hereof is the case, and the lot is within 100 feet of an existing building on one side only, then the front yard is the same as that of the existing adjacent building.
- (b) Sills, belt courses, window air-conditioning units, chimneys, cornices, and ornamental features may project into a required yard a distance not to exceed twenty-four inches.
- (c) Filling station pumps and pump islands may occupy required yards provided, however, that they are not less than fifteen feet from all lot lines.
- (d) Signs in accordance with Chapter 1189.
- (e) Open fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear yard for a distance of not more than three and one-half feet when so placed as to not obstruct light and ventilation, may be permitted by the Building and Zoning Inspector.
- (f) Open, unenclosed porches (not glassed in) may not extend more than ten feet into a front yard.
- (g) Terraces which do not extend above the level of the ground (first) floor may project into a required yard, provided these projections be distant at least two feet from the adjacent side lot line.
- (h) No side yards are required where dwellings are erected above commercial structures except such side yard as may be required for a commercial building on the side of a lot adjoining a residential district.
- (i) Accessory buildings may be located in a rear yard but may not occupy more than thirty percent (30%) of a rear yard.
- (j) Any accessory building closer than ten feet to a main building shall be considered as part of the main building and shall be provided with the side and rear yards required for the main building.
- (k) An accessory building more than ten feet from a main building may be erected within two feet of a side or rear lot line, but must be located at least sixty feet from the front street line.

- (l) Where a garage is entered from an alley, it must be located at least ten feet from the alley line.
- (m) On corner lots the minimum buildable width of twenty-eight feet for main buildings is reduced to twenty-two feet for accessory buildings.
- (Ord. 1973-9. Passed 12-17-73.)

CHAPTER 1177

Density Regulations

1177.01 Minimum lot area and width.

1177.02 Exceptions.

CROSS REFERENCES

Lot defined - see P. & Z. 1121.01(a)(46) RU Rural District - see P. & Z. Ch. 1143

Yard requirements - see P. & Z. Ch. 1175

Large-scale residential developments - see P. & Z. 1185.01(b)

1177.01 MINIMUM LOT AREA AND WIDTH.

The following minimum lot areas and lot width shall be provided in the districts indicated.

Lot Area Per Family in Sq. Ft.

District	Lot Width in Ft.	Lot Area in Sq. Ft.	Single family dwelling	Two family dwelling	Multiple dwelling
RU	150	43,560	43,560	NA	NA
RC	150	20,000	20,000	NA	NA
RS-1	80	12,000	12,000	NA	NA
RS-2	70	8,000	8,000	NA	NA
RS-3	60	7,200	7,200	NA	NA
RD	60	6,000	6,000	3,500	2,500
RA	60	6,000	6,000	3,000	2,000
B-1	None	None	6,000	3,000	2,000
B-2	None	None	6,000	3,000	2,000
B-3	None	None	6,000	3,000	2,000
I	None	None	Dwellings prohibited		

NA: Not Applicable

(Ord. 1973-9. Passed 12-17-73.)

1177.02 EXCEPTIONS.

The minimum lot area and lot width requirements established above may be modified as follows:

- (a) Where a lot of record at the time of the effective date of this Zoning Ordinance has less area or width than herein required in the district in which it is located, and the owner of such lot does not own any other parcel or tract adjacent thereto, such lot may nevertheless be used for a one-family dwelling or for any non-dwelling use permitted in the district in which it is located.
- (b) Existing buildings that are in violation of lot area requirements may be remodeled or repaired, but may not be reconstructed or structurally altered unless made to conform to these requirements.
- (c) Lot area per family requirements shall not apply to dormitories, fraternities, sororities, nursing homes or other similar group quarters where no cooking facilities are provided in individual rooms or apartments.
- (d) In the RU District, the minimum lot area per family may be reduced to 20,000 square feet and the lot width to 100 feet where public water service is available but where there is no public sewer service, or to 15,000 square feet and eighty feet, respectively, where both public water and public sewer services are available. (Ord. 1973-9. Passed 12-17-73.)

CHAPTER 1179

Off-Street Parking and Loading Requirements

1179.01 Off-street parking requirements.

1179.02 Rules for computing parking spaces.

1179.03 Location of required parking spaces.

1179.04 Minimum improvement and maintenance standards.

1179.05 Off-street loading requirements.

CROSS REFERENCES

Definitions - see P. & Z. 1121.01(a)(44), (59)

Erection or structural alteration of buildings in conformity with requirements - see P. & Z. 1171.03(b)

Accessory garages and parking lots - see P. & Z. 1181.02 et seq.

Manufactured homes - see P. & Z. 1187.02(c)

1179.01 OFF-STREET PARKING REQUIREMENTS.

Off-street parking spaces shall be provided as follows in all districts except the B-3 Central Business District.

- (a) All nonresidential buildings, except those specified herein - one space for each 300 square feet of floor area.
- (b) Auditoriums, theatres and other places of public assembly - one parking space for each five seats.
- (c) Church or temple - one parking space for each four seats in the main auditorium.
- (d) Community center, library, museum, or similar public or semi-public building - one parking space for each 250 square feet of floor area in the building.
- (e) Funeral homes - ten parking spaces for each chapel plus one for each funeral home vehicle plus one for each family residing on the premises.
- (f) Hospital - two and three-tenths parking spaces for each bed.
- (g) Hotel or motel - five parking spaces plus one space for each sleeping room or suite.
 - (h) Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse or other similar establishments - two parking spaces for every three employees on the maximum shift, plus space to accommodate all trucks and other vehicles used in connection therewith.
- (i) Medical office - Buildings in which twenty percent (20%) or more of the gross area is occupied by members of the healing profession - one parking space for each 200 square feet of the gross area used for this purpose.
- (j) Multiple dwellings - One and one-half spaces for each dwelling unit in the RD and RA Districts. One and two-tenths spaces for each dwelling unit in all other districts.
- (k) Private club or lodge - one parking space for each 300 square feet of floor area.
- (l) Rooming and boarding houses, sororities and fraternities - one parking space for each 200 square feet of floor area.
- (m) Sanitarium or institutional home - one parking space for each three beds.
- (n) School - for high schools, colleges and universities, ten spaces per classroom; for elementary schools two parking spaces per classroom.
- (o) Single family and two-family dwellings - one space for each bathroom or fraction thereof in the dwelling unit.

(Ord. 1973-9. Passed 12-17-73.)

1179.02 RULES FOR COMPUTING PARKING SPACES.

In computing the number of required off-street parking spaces the following rules shall apply:

- (a) Floor area shall mean the gross floor area of the specific use, excluding any floor or portion thereof used for parking, as herein defined.
- (b) Where fractional spaces result, the parking spaces required shall be the nearest whole number.
- (c) In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
- (d) Whenever a building or use constructed or established after January 1, 1963, is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, parking spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to January 1, 1963 is reconstructed or is enlarged to the extent of twenty percent (20%) or more in floor area such building or use in its entirety shall then and thereafter comply with the parking requirements set forth herein. Any enlargement or change in use of less than twenty percent (20%) of the gross floor area shall be provided with parking based on the enlargement or change.

(Ord. 1973-9. Passed 12-17-73.)

1179.03 LOCATION OF REQUIRED PARKING SPACES.

All parking spaces required herein shall be located as follows:

- (a) The parking spaces required for residential buildings or uses shall be located on the same lot with the building or use served. The parking spaces required for any other building or use may be located within 200 feet of such building and two or more owners of buildings may join together in providing the required parking spaces. Where the required parking spaces are not located on the same lot with the building or use served, the usage of the lot or tract upon which such parking spaces are provided shall be restricted by an instrument of record describing the premises for which such parking is provided and assuring the retention of such parking so long as required by these regulations.
- (b) No parking spaces may be located in a front yard in any R Residential District.

(Ord. 1973-9. Passed 12-17-73.)

1179.04 MINIMUM IMPROVEMENT AND MAINTENANCE STANDARDS.

Parking lots and garages shall conform with the following improvement and maintenance standards:

All open parking areas provided in compliance with this Zoning Ordinance shall be surfaced with a durable, dust-proof surface consisting of concrete, asphaltic concrete, with adequate base as approved by designated engineering personnel of the Village. The parking areas shall be maintained in a usable dust-proof condition and graded and drained to dispose of all surface water. Whenever lighting is provided, it shall be so hooded or shielded as to reflect the light away from abutting or neighboring property including public rights of way. One standard tree of at least three inch diameter shall be planted on the lot for each ten parking spaces. The location of each parking space and the direction of movement along the access driveways shall be indicated by painting upon the surface of the lot. A structurally sound wall or other abutment shall be installed and so placed around each side of the parking lot to insure that no part of an automobile either extends over or is capable of accidentally rolling across the property line of the parking lot.

(Ord. 1973-9. Passed 12-17-73.)

1179.05 OFF-STREET LOADING REQUIREMENTS.

There shall be provided at the time any building is erected or structurally altered off-street loading space in accordance with the following requirements:

- (a) Office buildings, apartments, apartment hotels, motels and hotels - one space for each 5,000 to 50,000 square feet of gross floor area; two spaces for each 50,000 to 200,000 square feet of gross floor area; one additional space for each 75,000 square feet of gross floor area above 200,000 square feet.
- (b) Retail or service establishment or wholesale commercial use - one space for each 2,000 to 20,000 square feet of gross floor area; two spaces for each 20,000 to 100,000 square feet of gross floor area; one additional space for each 75,000 square feet of gross floor area above 100,000 square feet.
- (c) Manufacturing or industrial use - one space for each 10,000 square feet of floor area or fraction thereof in excess of 5,000 square feet.
- (d) In all cases where the off-street loading space is located in a manner that a truck must back directly from a major street into a loading space, a maneuvering space of not less than fifty feet shall be provided on the lot on which the industrial use is located.

(Ord. 1973-9. Passed 12-17-73.)

Accessory Buildings and Uses

- 1181.01 Accessory buildings and uses permitted.**
- 1181.02 RU, RC, RS, RD and RA Districts.**
- 1181.03 Additional accessory buildings and uses in RA District.**
- 1181.04 Commercial and industrial districts.**
- 1181.05 Additional requirements.**

CROSS REFERENCES

Accessory building or use defined - see P. & Z. 1121.01(a)(1), (2)
Home occupation defined - see P. & Z. 1121.01(a)(39)
Supplementary district regulations - see P. & Z. Ch. 1171
Off-street parking and loading - see P. & Z. Ch. 1179

1181.01 ACCESSORY BUILDINGS AND USES PERMITTED.

Uses of accessory buildings, accessory uses of principal buildings and accessory uses of a lot are permitted when in accordance with this chapter.

(Ord. 1979-7. Passed 6-12-79.)

1181.02 RU, RC, RS, RD AND RA DISTRICTS.

In the RU, RC, RS, RD and RA Districts, accessory buildings and uses are limited to:

- (a) A noncommercial greenhouse that does not exceed in floor area twenty-five percent (25%) of the ground floor area of the main building.
- (b) A private residential garage used only for the housing of noncommercial passenger automobiles and with a floor area of not to exceed 500 square feet. An additional floor area of 200 square feet may be provided for each 3,000 square feet of lot area by which such lot exceeds 6,000 square feet, provided that no garage shall exceed 1,000 square feet nor house more than five such automobiles or vehicles of comparable size.
- (c) Home occupation.
- (d) Vegetable or flower garden.
- (e) Tennis court, swimming pool, garden house, pergola, ornamental gate, barbecue oven, fireplace, and similar uses customarily accessory to residential uses.

(Ord. 1973-9. Passed 12-17-73.)

1181.03 ADDITIONAL ACCESSORY BUILDINGS AND USES IN RA DISTRICT.

In the RA District, there may also be:

Storage garages and parking lots conforming with the provisions of Chapter 1179.

(Ord. 1973-9. Passed 12-17-73.)

1181.04 COMMERCIAL AND INDUSTRIAL DISTRICTS.

In the Commercial and Industrial Districts, there may also be:

- (a) Parking lots and garages conforming with the requirements of Chapter 1179.
- (b) Use of not to exceed forty percent (40%) of the floor area of a building for incidental storage or light industrial activity.

(Ord. 1973-9. Passed 12-17-73.)

1181.05 ADDITIONAL REQUIREMENTS.

There shall be the following additional regulations for accessory buildings:

- (a) No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used unless the main building on the lot is also being used. However, nothing shall prevent the use of a temporary construction shed or road wagon for the storage of tools, material and equipment by a contractor during building construction.
- (b) No accessory building may be erected in front of a main building unless the accessory building is attached to the main building by a common wall.
- (c) Accessory buildings may not be used for dwelling purposes.

(Ord. 1973-9. Passed 12-17-73.)

CHAPTER 1183

Fences

- 1183.01 Purpose.**
- 1183.02 Scope.**
- 1183.03 Definitions.**
- 1183.04 Permitted types.**
- 1183.05 Restrictions.**
- 1183.06 Swimming pools.**
- 1183.07 Corner or through lot.**
- 1183.08 Maintenance.**
- 1183.09 Permit and appeal.**
- 1183.10 Inspection.**
- 1183.11 Spite fences.**
- 1183.12 Fences, hedges and shrubbery.**
- 1183.99 Penalty.**

CROSS REFERENCES

Variances - see P. & Z. 1129.05(c)
Height regulations - see P. & Z. Ch. 1173
Yard regulations - see P. & Z. Ch. 1175
Fences on corner lots - see P. & Z. 1175.03(j)

1183.01 PURPOSE.

The purpose of this chapter is to establish regulations controlling the use of fences, hedges and walls whereby the lot owner in a residence district may have the privilege of privacy and landscape design within his own lot with due consideration to the environment of his neighbor, the appearance of the community and the safety of the public and the individual.

1183.02 SCOPE.

This chapter shall apply to all residence districts. The fence regulations herein shall not apply to any permanent fence erected prior to the effective date of this chapter.

1183.03 DEFINITIONS.

(a) As used in this chapter:

- (1) "Fence" means any structure composed of wood, iron, steel, tree row, shrubbery, hedges or other material erected in such a manner and position as to enclose or partially enclose all or any part of the premises. Trellises or other structures supporting or for the purpose of supporting vines, flowers, and other vegetation when erected in such position as to enclose all or any part of any premises shall be included within the definition of the word "fence ." Structures erected other than on lot lines or in proximity to lot lines, which have solely an ornamental purpose and which do not in fact serve the purpose of enclosing or partially enclosing premises or of separating premises from adjoining premises, shall not be included within the definition of the word "fence".
- (2) "Privacy fence" means a fence made to inhibit public view and provide seclusion and, when viewed at right angles, having more than fifty percent (50%) of the area of its vertical plane (the area within a rectangular outline enclosing all parts of the fence in its vertical plane) closed to light or air. Permitted privacy fences are:
 - A. "Basket weave or woven fence" means a fence made of interwoven strips or slats of flexible or semi-flexible material in which the pattern has the appearance of a plaited basket.
 - B. "Louver or ventilating fence" means a fence made of a series of slats placed at an angle or positioned so as to provide air but to deflect light perpendicular to its vertical plane.
- (3) "Open ornamental fence" means a fence usually made of wood constructed for its beauty or decorative effect and, when viewed at right angles, having not less than fifty percent (50%) of the area of its vertical plane (the area within a rectangular outline enclosing all parts of the fence in its vertical plane) open to light and air. Permitted open ornamental fences are:
 - A. "Rail or split rail fence" means a fence constructed of narrow, whole or split, wooden timbers placed horizontally between upright supporting posts.
 - B. "Picket fence" means an open fence made of upright pales or slats.
- (4) "Chain link fence" means a fence usually made of metal consisting of loops of wire interconnected in a series of joined links.
- (5) "Barbed wire fence" means a fence made with metal wire having sharp points or barbs along its length.
- (6) "Stockade (palisade) fence" means a fence constructed with a row of large pointed stakes placed upright against each other having more than fifty percent (50%) of the area of its vertical plane closed to light or air.

1183.04 PERMITTED TYPES.

Fences shall be permitted in required yards as follows, but in no case shall be constructed closer than ten feet from any structure unless approved by the Board of Zoning Appeals.

(a) Open ornamental fences shall be permitted in public facilities and residential zoning districts.

- (1) Front yards. Open ornamental fences may be erected in front yards parallel to the building line to a height not exceeding three and one-half feet; provided, however, that rail or split rail fences may be erected in front yards parallel to and on or approximately on the common property line but nearer than one foot to the street right of way.
- (2) Side and rear yards. Open ornamental fences may be erected in side and rear yards parallel to and on, or approximately on, the common property line to a height of not more than five feet.
- (b) Chain link fences shall be permitted in all zoning districts only in rear and side yards. Such fences may be erected parallel to and on, or approximately on, the common property line to a height not exceeding five feet above the natural grade. Such fences shall not allow vines or other sight inhibitors from blocking the view of traffic.
- (c) Privacy fences shall be permitted in all zoning districts only in rear yards. Such fences shall comply with the yard requirements of permitted accessory building and shall not exceed seven feet in height above the natural grade.
- (d) Shrubby or hedges shall be permitted in public facilities and residential zoning districts provided they conform to the height and location requirements of this chapter.
- (e) Any fence within ten feet in any direction from a point where any driveway, either on the fence owner's lot or the adjoining lot, intersects with the sidewalk shall have a minimum of seventy-five percent (75%) open area.
- (f) The Building and Zoning Inspector may permit other fences which are similar in character and design to one or more of the fences permitted herein.

1183.05 RESTRICTIONS.

(a) Barbed wire electrified fences are hereby prohibited. (A.O.)

(b) The restriction stating fences closer than ten feet from any structure requires the approval of the Board of Zoning Appeals is hereby repealed.

(Ord. 2004-12. Passed 8-23-04.)

1183.06 SWIMMING POOLS.

Swimming pools located within the corporate limits of the Village shall be surrounded by a fence, not less than four feet in height and all openings, doorways and entrances into such pool area shall be equipped with gates of equal height with such fence, which gates shall be provided with latches. Above ground pools shall have a locking gate and removable ladders. The design of any pool fence shall be approved by the Building and Zoning Inspector.

(Ord. 2004-13. Passed 8-23-04.)

1183.07 CORNER OR THROUGH LOT.

Where a rear or side yard abuts a street, fences otherwise permitted in side or rear yards shall not extend into required yards, provided however, that this provision shall not prohibit permitted rail or split rail fences erected in such side or rear yards parallel to and not nearer than one foot to

the side or rear property line, at a height not to exceed three and one half feet above the natural grade.

1183.08 MAINTENANCE.

Such permitted fences shall be maintained in good condition, be structurally sound and attractively finished at all times. Any grounds between such fences and property lines shall be well maintained at all times. Any such fences permitted on the property line shall be designed, constructed and finished so that the supporting members thereof shall face the property of the owner of the fence.

1183.09 PERMIT AND APPEAL.

(a) Any fence which may be permitted shall require the issuance of a permit prior to its erection by the Building and Zoning Inspector after an application for same has been approved by him.

(b) Should the Building and Zoning Inspector fail or refuse to issue a permit after proper application has been made therefor, a person may appeal the failure or refusal to the Board of Zoning Appeals. The power to grant variances to this chapter shall include, but not be limited to, the authority to grant variances with respect to prohibited fences under Section 1183.05. The person seeking a variance shall follow all rules and Board of Zoning Appeals procedures currently enforced for granting variances to the application of the Village Zoning Ordinance, including no such variance shall be authorized unless a finding is made that all of the following facts and conditions exist:

- (1) Exceptional and extraordinary circumstances or conditions applying to the subject property that do not apply generally to other properties in the same district or vicinity.
- (2) The special circumstances or conditions do not result from actions of the property owner or any of his predecessors in title.
- (3) Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by owners of other properties in the same district or vicinity.
- (4) The authorization of such variance shall not be materially detrimental to the public welfare or injurious to property in the district or vicinity in which the property is located.

1183.10 INSPECTION.

It shall be the duty of the property owner to determine property lines and to ascertain that the fence thus constructed does not deviate from the plans as approved by the Building and Zoning Inspector issuing permits, and such fence does not encroach upon another lot or parcel of land. The Village shall furnish such inspection as is deemed necessary to determine that such fence is constructed in accordance with plans submitted for permit, provided however, that the issuance of such permit by the Village shall not be construed to mean the Village has determined such fence is not encroaching upon another lot, nor shall it relieve the property owner of the duty imposed upon him herein.

1183.11 SPITE FENCES.

Fences and small incidental structures used for children's recreation shall not be subject to the requirements for the principal building or the accessory building, but no "spite fence" shall be erected or maintained. For the purposes of this Zoning Ordinance, a "spite fence" is any fence of such height or character as to block access of light and air to any ground floor window or upper window or to interfere with the reasonable use of a person's property. In any case, no fence shall be erected higher than five feet.

1183.12 FENCES, HEDGES AND SHRUBBERY.

No fence or wall serving the purpose of a fence shall be constructed of such height and in such a location (in the front or side yard) as to interfere with the safety of vehicular traffic in the streets. Hedges and shrubbery on corner lots shall be subject to the same regulations as those for fences.

1183.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00). Each day that such violation continues shall constitute a separate offense.

CHAPTER 1185

Large-Scale Residential Developments

1185.01 Minimum requirements.

1185.02 Public hearing; approval.

CROSS REFERENCES

Height regulations - see P. & Z. Ch. 1173

Yard regulations - see P. & Z. Ch. 1175

Density regulations - see P. & Z. Ch. 1177

Off-street parking and loading - see P. & Z. Ch. 1179

1185.01 MINIMUM REQUIREMENTS.

Large-scale residential developments, where permitted, are subject to the following conditions:

- (a) The development shall have a minimum area of ten acres.
- (b) The housing type, minimum lot area, yard, height and accessory uses shall be determined by the requirements and procedure set out below, which shall prevail over conflicting requirements of this Zoning Ordinance or the Subdivision Regulations.
- (c) The Final Development Plan shall follow all applicable procedures, standards and requirements of the Subdivision Regulations. The Final Development Plan shall be prepared by and have the seal of an architect or engineer duly registered to practice in this State. No building permit shall be issued until a final plat of the proposed development is approved and recorded.
- (d) The Planning Commission shall review the conformity of the proposed development with the standards of the official Village plan and recognized principles of civic design, land use planning and landscape architecture. The minimum yard and maximum height requirements of the district in which the development is located shall not apply except that minimum yards shall be provided around the boundaries of the area being developed. The Commission may impose conditions regarding the layout, circulation and performance of the proposed development and may require that appropriate deed restrictions be filed enforceable by the Village for a period of twenty years from date of filing. A plat of development shall be recorded regardless of whether a subdivision is proposed and such plat shall show building lines, common land, streets, easements and other applicable features required by the Subdivision Regulations.
- (e) The number of dwelling units permitted shall be determined by dividing the net development area by the minimum lot area per family required by the district or districts in which the area is located. Net development area shall be determined by subtracting the area

set aside for churches, schools or other nonresidential uses from the gross development area and deducting twenty percent (20%) of the remainder for streets, regardless of the amount of land actually required for streets. The area of land set aside for common open space or recreational use shall be included in determining the number of dwelling units permitted. (Ord.1973-9. Passed 12-17-73.)

1185.02 PUBLIC HEARING; APPROVAL.

The Planning Commission may hold one or more public hearings on a Final Development Plan. The recommendations of the Commission shall be forwarded to Council who shall approve or disapprove the action of the Commission with or without modification and after public hearing. After approval by Council and after any required restrictions are in effect, the Building Inspector may issue permits enabling the approved Final Development Plan to be carried out. (Ord. 1973-9. Passed 12-17-73.)

CHAPTER 1187

Manufactured Homes

1187.01 Location; skirting.

1187.02 Minimum requirements.

CROSS REFERENCES

Manufactured home parks - see Ohio R.C. 3733.01 to 3733.19

Occupying a moving trailer or manufactured home - see TRAF. 331.35

Defined - see P. & Z. 1121.01(a)(53)

Manufactured homes to be in parks or courts - see P. & Z. 1171.05

1187.01 LOCATION; SKIRTING.

(a) All inhabited manufactured homes shall be located in a manufactured home park which has received a conditional use permit and which conforms with the following requirements. No manufactured home outside of an approved manufactured home park shall be connected to utilities except those manufactured homes being offered for sale and not inhabited. Existing manufactured homes not located in a manufactured home park may be replaced by new manufactured homes without regard to this section.

(b) Each vehicle or structure shall have placed around its perimeter skirts or panels constructed of a suitable material so as to screen the area beneath such vehicle or structure from view. (Ord. 1973-9. Passed 12-17-73.)

1187.02 MINIMUM REQUIREMENTS.

Manufactured home parks shall meet the following minimum standards:

- (a) Each lot provided for the occupancy of a single manufactured home unit shall have an area of not less than 5,000 square feet and a width of not less than fifty feet, and no park shall be permitted an average density of manufactured home lots of more than six per acre, and each park shall provide an area of not less than eight acres.
- (b) All parks shall provide lots sufficient in size that no manufactured home or any structure, addition or appurtenance thereto is located less than ten feet from the nearest adjacent court boundary.
- (c) Space between manufactured homes may be used for the parking of motor vehicles if the space is clearly designated and the vehicle is parked at least ten feet from the nearest adjacent park boundary.
- (d) Each lot shall abut or face a clear unoccupied space, driveway, roadway, or street of not less than twenty feet in width, which shall have unobstructed access to a public highway, street or alley.
- (e) The park shall be surrounded by a landscaped strip of open space fifty feet wide along the street frontage of a major street and twenty-five feet wide along all other park boundaries or street frontage.
- (f) The physical development, layout and construction of all manufactured home parks shall conform to applicable regulations of the Ohio Department of Health, except where requirements of this section are greater than standards of the State in which case these requirements shall prevail.

(Ord. 1973-9. Passed 12-17-73.)

CHAPTER 1189

Signs

1189.01 Purpose.

1189.02 Definitions.

1189.03 Exemptions.

1189.04 Regulations for all signs.

1189.05 Signs in residential districts.

1189.06 Signs in commercial and industrial districts.

1189.07 Prohibited signs.

1189.08 Construction and maintenance standards.

1189.09 Repair, restoration and nonconforming signs.

1189.10 Permit required; application; revocation.

1189.11 Variances.

CROSS REFERENCES

Power to regulate billboards and signs - see Ohio R.C. 715.27

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

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

Nonconforming uses - see P. & Z. Ch. 1191

1189.01 PURPOSE.

This chapter creates the legal framework for signage regulations that is intended to facilitate a lawfully acceptable communication between people. It recognizes the need to protect safety and welfare of the public, the need for well maintained and attractive appearance in the Village,

and the need for adequate business identification and advertising and communication. This section recognizes that aesthetics and design quality cannot be satisfactorily legislated, as individual opinions vary and local public sentiment vary from one place and era to another. It is recognized, however, that a great percentage of that which is unattractive can be eliminated by sensible quality control, through adequate maintenance and inspection and by reasonable guidelines formulated to minimize clutter. This chapter intends to achieve the specific purposes to preserve, protect and promote property values and the community appearance, and to accommodate legitimate advertising and quality signage.

1189.02 DEFINITIONS.

As used in this chapter, certain terms are defined as follows:

- (a) "Sign" means any device designed to inform or attract the attention of persons whether on or off the premises on which the sign is located.
- (b) "Freestanding ground sign" means a sign supported from the ground by one or more poles, uprights or braces, but not from a building or other structure.
- (c) "Wall sign" means a sign erected parallel to the outside building wall and extending not more than eighteen inches from such wall, but which does not project above the roof line or beyond the building corner.
- (d) "Projecting sign" means a sign erected on the outside building wall which projects at an angle therefrom.
- (e) "Sign face area" measurement or calculation shall include all sign frame appurtenances, supports or structural members above the average finished grade at the sign base. Only one side of a double or multi-faced sign shall be used to calculate face area provided such sign faces are not joined at an angle greater than fifteen degrees.
- (f) "Roof sign" means any sign placed or attached by any means to the roof of the building.
- (g) "Billboard" means a freestanding sign or wall sign exceeding eighty-two and one-half square feet of face area.

1189.03 EXEMPTIONS.

The following signs are exempt from provisions of this section:

- (a) Governmental signs, notices posted by governmental authority or as required by law, and religious insignia.
- (b) Historical or commemorative signs issued by a recognized historical agency.
- (c) Residential security signs limited to a maximum one square foot of face area and two such signs per lot.
- (d) Traffic and directional signs indicating points of entry or exit for a facility or off-street parking area, provided such signs are limited to a maximum two square feet in face area and three feet in height, do not interfere with safe traffic circulation and do not interfere with or obstruct the view of drivers exiting onto streets or highways and do not contain information other than the words "in", "enter", "entrance", "out" or "exit" and/or arrows indicating desired traffic movement.

1189.04 REGULATIONS FOR ALL SIGNS.

All signs permitted by this section shall be subject to the following:

- (a) No sign shall be located on any public property, in the public right-of-way or affixed to any utility pole, tree or screening, except with approval of Council.
- (b) No part of any sign shall be less than ten feet from any lot line or right-of-way line.
- (c) Permanent freestanding ground signs shall not exceed eight feet in height from the average finished grade at the sign base to the top of the sign and shall be landscaped with all season planting or ground cover having a minimum eighteen inches in height and extending a minimum eighteen inches around the sign support circumference. The exception is a national chain store using uniform size signs at all their locations.
- (d) Not more than one permanent freestanding ground sign per lot is permitted.
- (e) Illumination where permitted shall be of light with constant intensity and shielded or directed to prevent excessive brightness or glare or create a nuisance.
- (f) Off-site signs, when permitted, shall be posted on private property only with permission of the owner or agent of such property.

1189.05 SIGNS IN RESIDENTIAL DISTRICTS.

(a) No person shall erect or post any sign in any RU, RC, RS-1, RS-2, RS-3, RD or RA District except as follows:

- (1) One permanent nameplate sign for each dwelling unit in a single-family or two-family dwelling, with a maximum three square feet of face area, containing the name of the occupant or property or any home occupation.
- (2) One permanent or temporary on-site roadside sign for lands used for agricultural purposes with a maximum eighteen square feet of face area for any lot five acres or more and a maximum four square feet of face area for any lot less than five acres, and which advertises only goods sold on the premises. In addition, each agricultural lot shall be allowed two off-site directional signs, each with a maximum one square foot of face area.
- (3) One temporary building construction sign with a maximum eighteen square feet of face area which may be exhibited only during the construction period.
- (4) One temporary "for sale" or "for rent" sign with a maximum eight square feet of face area.
- (5) One temporary subdivision, development or model home sign with a maximum thirty square feet of face area per subdivision. Such sign shall be removed or the permit renewed annually not later than one year after initial issuance.
- (6) Political signs may be exhibited not more than thirty days before nor more than seven days after the date of any election.
- (7) Temporary signs promoting school, church or community service activities may be exhibited not more than fourteen days before the commencement of such activity nor more than seven days after such activities ended.
- (8) One permanent identification sign for each church, school, memorial park or golf club use.
- (9) One garage sale sign with a maximum four square feet of face area, which may be exhibited only during the conduct of such sale and only on the lot where conducted. "Garage sale" as used herein means a sale of residential household goods, equipment, utensils, appliances, personal clothing or effects, or other similar personal property, and includes without limitation the following types of sales: house, barn, basement, attic, porch, carport, lawn, yard, driveway, clothesline, casual, rummage, flea market, and the like.

(b) All signs permitted in the RU, RC, RS-1, RS-2, RS-3, RD and RA Districts shall be subject to the following: No sign shall be illuminated except for nameplate signs not denoting a home occupation or identification signs for a church, school, memorial park or golf club.

1189.06 SIGNS IN COMMERCIAL AND INDUSTRIAL DISTRICTS.

(a) No person shall erect or post any sign in any Commercial or I Industrial District except as follows:

- (1) One freestanding ground sign with a maximum face area of thirty-two square feet per business or industrial property lot or combination of lots or portions thereof combined to form one parcel.
(Ord. 2001-39. Passed 8-27-01.)
- (2) One wall sign per building occupant limited to three-fourths square feet of face area for each lineal foot or part thereof of building width occupied or one sign on a mansard placed in the center one-third at a height not greater than one-fourth the mansard height,

but neither sign exceeding a maximum seventy-five square feet of face area.

- (3) One identification sign per rear door limited to a maximum six square feet of face area for a public rear entrance and limited to a maximum three square feet of face area for a service entrance.
- (4) One temporary building construction sign as provided for in Section 1189.05(a)(3).
- (5) One temporary "for sale" or "for rent" sign as provided for in Section 1189.05(a)(4).
- (6) Temporary service activities sign as provided for in Section 1189.05(a)(7).
- (b) All signs permitted in Commercial or Industrial Districts shall be subject to the following:
 - (1) Signs shall be exhibited only on the property being developed or used in connection with such sign.
 - (2) All signs may be illuminated and have changeable copy.
 - (3) Abandoned signs relating to any business or industry which has moved or discontinued operations shall be removed by the property or building owner or his agent within thirty days after such vacation or discontinuance.

1189.07 PROHIBITED SIGNS.

- (a) The following signs are hereby prohibited in the Village:
 - (1) Roof signs.
 - (2) Projecting signs.
 - (3) Pole signs which permit pedestrians or vehicles to pass under such signs.
 - (4) Searchlights, balloons and similar advertising devices.
 - (5) Signs resembling traffic control devices.
 - (6) Unsafe signs or signs causing a hazard.
 - (7) Abandoned signs.
 - (8) Billboards.
- (b) Other Permitted Uses.
 - (1) Murals or signs painted on walls.
 - (2) Strings, banners, pennants, ribbons, streamers, spinners or other moving devices.
 - (3) Flashing, blinking, intermittent illumination, revolving, oscillating or otherwise moving light signs.
 - (4) Mobile or portable signs.
 - (5) Political signs in Commercial and Industrial Districts.

1189.08 CONSTRUCTION AND MAINTENANCE STANDARDS.

- (a) All signs and supports shall be installed and maintained subject to the following:
 - (1) Signs and supports shall be structurally sound, safe and pose no danger to persons or property.
 - (2) Signs and supports shall be fabricated on and of materials which are good quality, good durability and conform to allowable stresses and temperatures for such materials.
 - (3) Signs and supports shall be structurally designed to withstand a wind force of seventy-five miles per hour.
 - (4) Electric wiring shall be installed and maintained according to safe practice and in weatherproof condition.
 - (5) Signs and supports shall not constitute a blight or deteriorating influence on adjacent or neighboring properties.

1189.09 REPAIR, RESTORATION AND NONCONFORMING SIGNS.

(a) All sign framing and supports shall be repaired or repainted as required to preclude blight or deteriorating influence. Any conforming sign or support blown down, destroyed or otherwise involuntarily taken down may be rebuilt, restored or relocated upon obtaining a new permit, complying with this Zoning Ordinance and subject to approval of the Building and Zoning Inspector.

(b) All legally nonconforming signs and supports shall not be graphically or structurally altered, added to or enlarged, changed or relocated except in conformity with or to conform to this Zoning Ordinance. Any legally nonconforming sign which is involuntarily removed or damaged or destroyed for any cause, by sixty percent (60%) or more of its replacement value at the time of such damage or destruction, may be rebuilt, restored or relocated only after obtaining a new permit from the Building and Zoning Inspector, upon complying with this Zoning Ordinance, and subject to approval of the Building and Zoning Inspector. Lawfully permitted change of copy and minor repairs such as cleaning, painting and refurbishing is permitted at any time. Legally nonconforming signs damaged or destroyed by less than forty percent (40%) of replacement value may be restored to previous nonconforming condition if commenced within thirty days of such damage or destruction and diligently pursued to completion.

1189.10 PERMIT REQUIRED; APPLICATION; REVOCATION.

(a) Required. No person shall erect, alter or relocate any sign without first obtaining a permit from the Building and Zoning Inspector and paying the fee required herein, except that nonstructural repairs or maintenance may be made without a permit. A permit is required for all signs except political signs, for sale or for rent signs not exceeding six square feet in face area, nameplate signs not denoting any home occupation, and not more than two temporary school, church, or garage sale community service activity signs which may be displayed not more than forty-eight consecutive hours.

(b) Application. Application for a sign permit shall be made upon a form provided by the Building and Zoning Inspector and shall contain or have attached thereto, the following information:

- (1) Name, address and telephone number of the applicant.
- (2) Location of the building or lot to which or upon which the sign is to be attached or erected, and position of the sign in relation to nearby buildings and structures and the lot lines or right-of-way lines.
- (3) Plans and specifications indicating method of construction, attachment to building or installation in the ground and method of illumination.
- (4) Name of person, firm, corporation or association erecting the sign.
- (5) Written consent of the owner of the building, structure or land to which or on which the sign is to be attached or erected.
- (6) Scaled drawing indicating the sign dimensions, materials, color and copy, and the building face and sign position for a wall sign.
- (7) Such other information as the Building and Zoning Inspector may require to show full compliance with this section and other laws.
- (c) Issuance. It shall be the duty of the Building and Zoning Inspector, upon an application being filed for an erection permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign. If it appears that the proposed sign is in compliance with all the requirements of this section and other laws, the sign permit shall be issued. If the work authorized by a sign permit has not been completed within six months after the date of issuance the permit shall become null and void.
- (d) Fees. Every sign permit applicant, before being granted a permit, shall pay a fee or deposit as required by Council.
- (e) Revocation. The Building and Zoning Inspector is authorized and empowered to revoke any sign permit issued upon failure of the permittee to comply with any provision of this Zoning Ordinance.

1189.11 VARIANCES.

The Board of Zoning Appeals may grant sign variances.

CHAPTER 1191

Nonconforming Uses

- 1191.01 Nonconforming use of buildings.**
- 1191.02 Discontinuance of nonconforming uses.**
- 1191.03 Destruction of a nonconforming use.**
- 1191.04 Nonconforming advertising signs.**
- 1191.05 Conditional uses not nonconforming.**
- 1191.06 Intermittent use.**
- 1191.07 Existence of a nonconforming use.**
- 1191.08 Nonconforming uses not validated.**

CROSS REFERENCES

Nonconforming use defined - see P. & Z. 1121.01(a)(56)

Zoning Board of Appeals - see P. & Z. Ch. 1129

Supplementary district regulations - see P. & Z. Ch. 1171

Nonconforming signs - see P. & Z. 1189.09

1191.01 NONCONFORMING USE OF BUILDINGS.

Except as otherwise provided herein, the lawful use of a building existing at the effective date of this Zoning Ordinance may be continued and expanded by an amount not to exceed two times its present floor area, although such use does not conform to the provisions hereof. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use. The nonconforming use of a building may be hereafter extended throughout those parts of a building which were lawfully and manifestly arranged or designed for such use at the time of the enactment of this Ordinance. (Ord. 1973-9. Passed 12-17-73.)

1191.02 DISCONTINUANCE OF NONCONFORMING USES.

No building or portion thereof used in whole or in part for a nonconforming use in a Residential District, which remains idle or unused for a continuous period of two years, whether or not the equipment or fixtures are removed, shall again be used except in conformity with the regulations of the Residential District in which it is located.

(Ord. 1979-7. Passed 6-12-79.)

1191.03 DESTRUCTION OF A NONCONFORMING USE.

No building which has been damaged by any cause whatsoever to the extent of more than fifty percent (50%) of the fair market value of the building immediately prior to damage, shall be restored except in conformity with this Ordinance, and all rights as a nonconforming use are terminated. If a building is damaged by less than fifty percent (50%) of the fair market value, it may be repaired or reconstructed and used as before the time of damage, provided that such repairs or reconstruction be substantially completed within twelve months of the date of such damage. (Ord. 1973-9. Passed 12-17-73.)

1191.04 NONCONFORMING ADVERTISING SIGNS.

All projecting advertising signs in violation of Chapter 1189 hereof shall be removed and such signs brought into conformity with Chapter 1189 on or before a date not later than five years from the effective date of this Zoning Ordinance.

(Ord. 1973-9. Passed 12-17-73.)

1191.05 CONDITIONAL USES NOT NONCONFORMING.

Existing uses eligible for conditional use permits shall not be nonconforming uses but shall require a conditional use permit for any alteration, enlargement or extension.

(Ord. 1973-9. Passed 12-17-73.)

1191.06 INTERMITTENT USE.

The casual, intermittent, temporary or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use and the existence of a nonconforming use on the part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

(Ord. 1973-9. Passed 12-17-73.)

1191.07 EXISTENCE OF A NONCONFORMING USE.

Whether a nonconforming use exists shall be a question of fact and shall be decided by the Board of Zoning Appeals after public notice and hearing and in accordance with the rules of the Board. (Ord. 1973-9. Passed 12-17-73.)

1191.08 NONCONFORMING USES NOT VALIDATED.

A nonconforming use in violation of a provision of the ordinance which this Zoning Ordinance repeals shall not be validated by the adoption of this Ordinance.

(Ord. 1973-9. Passed 12-17-73.)

CODIFIED ORDINANCES OF CARROLLTON

PART THIRTEEN - BUILDING CODE

TITLE ONE - Standards Adopted

Chap. 1303. One, Two and Three Family Dwelling Code.

TITLE THREE - Administration

Chap. 1321. Building and Zoning Inspector.

Chap. 1325. Permits and Fees.

TITLE FIVE - Miscellaneous Regulations

Chap. 1341. Unclean and Unsafe Buildings.
Chap. 1345. Fire Limits.
Chap. 1349. Flood Damage Reduction.

CODIFIED ORDINANCES OF CARROLLTON
PART THIRTEEN - BUILDING CODE
TITLE ONE - Standards Adopted

Chap. 1303. One, Two and Three Family Dwelling Code

CHAPTER 1303

One, Two and Three Family Dwelling Code

- 1303.01 Adoption.**
- 1303.02 Amendments.**
- 1303.03 Copies.**
- 1303.04 Definitions.**
- 1303.05 Separability; conflict.**

CROSS REFERENCES

Adoption of technical codes by reference - see Ohio R.C. 731.231
Building permits - see BLDG. Ch. 1321
Unsafe and unclean buildings - see BLDG. Ch. 1341

1303.01 ADOPTION.

There is hereby adopted by the Village, and incorporated by reference as if set out at length herein, that certain code known as the One and Two Family Dwelling Code, 1983 Edition, with the 1984 and 1985 Amendments, published jointly as a nationally recognized model code by the Building Officials and Code Administrators International, Inc.; International Conference of Building Officials; and Southern Building Code Congress International.

1303.02 AMENDMENTS.

The CABO One and Two Family Dwelling Code as adopted herein is hereby changed in the following respects:

Section R-101-Title (Amended).

These provisions shall be known as the "One, Two and Three Family Dwelling Code", may be cited as such and will be referred to herein as "this Code".

Section R-103-Scope and Conflict (Amended).

The provisions of this Code apply to the construction, prefabrication, alteration, repair, use, occupancy and maintenance of detached one, two and three family dwellings not more than three stories in height, and their accessory structures.

In all cases of conflict between the One, Two and Three Family Dwelling Code and any other municipal ordinance or technical code adopted thereby, the more restrictive provision shall govern.

Compliance with the requirements of this Code may be considered as prima facie evidence of compliance with the locally adopted code.

Section R-106-Violations and Penalties (Amended).

It shall be unlawful for any person, firm or corporation whether as owner, lessee, sublessee or occupant to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any one, two and/or three family dwelling in the Village or cause or permit the same to be done, contrary to or in violation of any of the provisions of this Code.

It is hereby declared that any violation of this Code constitutes a public nuisance, and in addition to any other remedies provided by this Code for its enforcement, the Village may bring civil suit to enjoin the violation of any provision of this Code.

If for any reason any one or more sections, sentences, clauses or parts of this Code are held invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Code.

Any person, firm or corporation violating any of the provisions of this Code shall be guilty of a minor misdemeanor and fined not more than one hundred dollars (\$100.00). Each day a violation continues or occurs shall constitute a separate offense.

Section R-107-Right of Appeal (Amended).

All persons shall have the right to appeal the Building Inspector's decision to Council.

Section R-109.2-Permit Fees (Amended).

Permit fees shall be as prescribed by Council.

1303.03 COPIES.

Copies of the One, Two and Three Family Dwelling Code as adopted herein are on file with the Clerk-Treasurer and in the County Law Library for public examination. The Clerk-Treasurer has copies available for sale to the public at cost.

1303.04 DEFINITIONS.

Whenever titles, words and phrases are used in the provisions of the One, Two and Three Family Dwelling Code, such terms shall be construed to mean the equivalent officer, word or phrase applicable to the Village.

1303.05 SEPARABILITY; CONFLICT.

(a) The invalidity of any section or provision of this chapter or of the Code hereby adopted shall not invalidate other sections or provisions thereof.

(b) In case of conflict between the One, Two and Three Family Dwelling Code and any other Municipal ordinance or technical code adopted thereby, the more restrictive provision shall govern.

TITLE THREE - Administration

Chap. 1321. Building and Zoning Inspector.

Chap. 1325. Permits and Fees.

CHAPTER 1321

Building and Zoning Inspector

- 1321.01 Creation.**
- 1321.02 Inspections.**

CROSS REFERENCES

Examination of public buildings as to safety in case of fire - see Ohio R.C. 737.34

Inspections; access to buildings - see Ohio R.C. 737.36

Permits and fees - see BLDG. Ch. 1325

Examination of unsafe buildings - see BLDG. 1341.09 et seq.

1321.01 CREATION.

There shall be created the position of Building and Zoning Inspector, whose responsibility it shall be to inspect all new buildings and additions thereto in compliance with the provisions of this Part Thirteen - Building Code. The Inspector shall conduct inspections as set forth in Section 1321.02 on all permits issued to verify conformance with all zoning regulations and with the laws and ordinances of the Village.
(Ord. 1977-22. Passed 11-9-77.)

1321.02 INSPECTIONS.

It shall be the duty of the Building and Zoning Inspector to conduct the following inspections upon each building permit application:

- (a) Four inspections for new construction excepting mobile homes which shall be inspected twice.
- (b) Two inspections shall be conducted for all new commercial construction.
- (c) Two inspections shall be conducted for all structural remodeling.
- (d) One inspection shall be conducted for all accessory buildings without foundations and two inspections shall be conducted for those being constructed upon a foundation.
- (e) One inspection shall be conducted on permits issued under Section 1325.02(f) for construction costing two hundred fifty-one dollars (\$251.00) to one thousand dollars (\$1, 000) and two inspections shall be conducted for construction costing over one thousand one dollars (\$1,001).

(Ord. 1977-22. Passed 11-9-77.)

CHAPTER 1325

Permits and Fees

1325.01 Permit required.

1325.02 Fees.

CROSS REFERENCES

Zoning permits, certificates and fees - see P. & Z. Ch. 1127

Construction or building repair permit - see BLDG. 1341.12

1325.01 PERMIT REQUIRED.

(a) A permit shall be required for all construction commenced inside the Village which shall exceed two hundred fifty dollars (\$250.00) in cost; excepting interior remodeling, nonstructural remodeling; decoration, painting; storm window repair, replacement or installation; installation of doors (interior or exterior); and portable accessory building(s) of a cost less than two hundred fifty dollars (\$250.00).

(b) A zoning permit only will be required for all construction and/or remodeling which by law of the State must have State approved plans prior to construction and will be State inspected. This permit will be used to determine proper zoning district, height, yard and density regulations, off-street parking, loading regulations and fences.

(c) If more than one activity listed under Section 1325.02 is planned for the same address in a thirty day period, a fee will be required for only one project and that cost will be the highest prevailing rate for that activity. All projects planned under this one permit must be reported to the Building and Zoning Inspector at the time the permit is issued.

(Ord. 1979-7. Passed 6-12-79.)

1325.02 FEES.

(a) The fee for new construction or installation of a modular home, single-family dwelling, or two-family dwelling shall be fifteen dollars (\$15.00) (Village fee) per family living unit, plus two dollars (\$2.00) (Inspector's fee) per 100 square feet of floor space including garage.

(b) The fee for a new installation or replacement of a manufactured home shall be ten dollars (\$10.00) (Village fee), plus ten dollars (\$10.00) (Inspector's fee).

(c) The zoning fee for multi-family dwellings (three units or more) which have received State approved plans shall be fifteen dollars (\$15.00) (Village fee) plus ten dollars (\$10.00) (Inspector's fee). These same fees will also apply to nonresidential construction which has received State approved plans and will be State inspected.

(d) The fee for remodeling residential or commercial buildings shall be as follows: for structural remodeling, including removal of exterior wall or addition of same where new foundation is required shall be ten dollars (\$10.00) (Village fee) plus ten dollars (\$10.00) (Inspector's fee).

(e) The fee for construction of an accessory building shall be five dollars (\$5.00) (Village fee) plus five dollars (\$5.00) (Inspector's fee) providing no foundation shall be built; if such building includes construction of a foundation, the fee shall be ten dollars (\$10.00) (Village fee) plus ten dollars (\$10.00) (Inspector's fee).

(f) For any construction or remodeling not specifically provided for above, the fee shall be five dollars (\$5.00) (Village fee) plus five dollars (\$5.00) (Inspector's fee) for projects costing two hundred fifty-one dollars (\$251.00) to one thousand dollars (\$1,000); the fee shall be ten dollars (\$10.00) (Village fee) plus ten dollars (\$10.00) (Inspector's fee) for projects costing one thousand one dollars (\$1,001) and more.

(g) A fee of five dollars (\$5.00) (Inspector's fee) shall be charged for any additional inspections or reinspections caused by applicant's noncompliance.

(Ord. 1979-7. Passed 6-12-79.)

(h) No lighted or unlighted portable sign shall be displayed in any district unless the proper fee has been paid and permit obtained as outlined herein.

- (1) A fee of twenty-five dollars (\$25.00) shall be required for the display of a lighted or unlighted portable sign in any district for a period of ninety consecutive days. Any such ninety consecutive day permit shall be non-renewable for a period of 365 days from the date of issuance.

- (2) A fee of seventy-five dollars (\$75.00) shall be required for the display of a lighted or unlighted portable sign in any district for a period of

365 consecutive days. Such 365 day permit shall be renewable at the expiration of the term of the permit.
(Ord. 2002-05. Passed 3-11-02.)

TITLE FIVE - Miscellaneous Regulations

Chap. 1341. Unclean and Unsafe Buildings.

Chap. 1345. Fire Limits.

Chap. 1349. Flood Damage Reduction.

CHAPTER 1341

Unclean and Unsafe Buildings

- 1341.01 Order to clean up premises.**
- 1341.02 Sanitary inspections.**
- 1341.03 Individual orders for abatement.**
- 1341.04 Copy of resolution to be served or published.**
- 1341.05 Unclean premises prohibited.**
- 1341.06 Periodic inspection.**
- 1341.07 Enforcement; court proceedings.**
- 1341.08 Definition; nuisance.**
- 1341.09 Notice to repair or demolish.**
- 1341.10 Service of notice.**
- 1341.11 Posting of signs.**
- 1341.12 Permits.**
- 1341.13 Noncompliance; legal and equitable remedies.**
- 1341.14 Unsafe conditions; reports.**
- 1341.15 Appeals.**
- 1341.99 Penalty.**

CROSS REFERENCES

Removal of dangerous building; notice to owner - see Ohio R.C. 715.26(B)

Cost of demolition - see Ohio R.C. 715.261

Investigation of sanitary code violations - see Ohio R.C. 3701.06

Barricades and warning lights - see GEN. OFF. 521.03

Notice to fill lots, remove putrid substances - see GEN. OFF. 521.05

Littering and deposit of garbage, rubbish, junk, etc. - see GEN. OFF. 521.08

Noxious or offensive odors - see GEN. OFF. 521.09

1341.01 ORDER TO CLEAN UP PREMISES.

Prior to May 10 in every year, the Mayor shall cause a notice or proclamation to be inserted in one or more newspapers of general circulation within the Municipality, ordering persons to clean thoroughly and provide proper drainage for all lands, yards, vaults, cesspools, sheds and barns and to cause all tin cans, trash and other unclean and unsightly matter to be removed therefrom on or before May 10.

(Ord. 1-A-1944. Passed 8-14-44.)

1341.02 SANITARY INSPECTION.

Thereafter, in the month of May of each year the County Health Officer or in his absence the Chief of Police shall make a thorough sanitary inspection of all public and private property in the Municipality and shall transmit his report together with his recommendations to Council on or before June 1. A copy of such report shall also be sent to the State Department of Health. (Ord. 1-A-1944. Passed 8-14-44.)

1341.03 INDIVIDUAL ORDERS FOR ABATEMENT.

If, upon inspection, it is found that the published order has not been complied with as to any lot or parcel of ground, Council shall, by resolution, direct the owner, occupant or person in charge of such land within ten days to abate the nuisance, setting forth the nature of the violation and the acts required to be done. Such resolution shall provide that upon failure or refusal to comply with such order, the work required will be done by the Municipality, with the amount expended therefor to be a valid claim against such owner or occupant and charged as a lien upon such land and recovered by the Municipality by suit in a court of competent jurisdiction. (Ord. 1-A-1944. Passed 8-14-44.)

1341.04 COPY OF RESOLUTION TO BE SERVED OR PUBLISHED.

A copy of the resolution adopted under Section 1341.03 may be served personally or at the usual place of residence of such owner, occupant or person in charge of such land or by registered or certified mail, or, in lieu of such service, may be published for two consecutive weeks in a newspaper of general circulation in the Municipality.

(Ord. 1-A-1944. Passed 8-14-44.)

1341.05 UNCLEAN PREMISES PROHIBITED.

No owner, occupant or person in charge of any lot or parcel of ground shall cause or permit water to accumulate thereon and become stagnant, permit culverts, drains or natural watercourses thereon to become obstructed, or cause or permit any putrid or unsanitary substance to accumulate thereon.

(Ord. 1-A-1944. Passed 8-14-44.)

1341.06 PERIODIC INSPECTION.

Independent of the annual clean-up and inspection provided for in Sections 1341.01 and 1341.02, the County Health Officer or the Police Chief shall make periodic inspection of properties within the Municipality and shall report all violations of Section 1341.05 to Council, which shall thereupon, by resolution, proceed to order such nuisances abated as provided in Sections 1341.03 and 1341.04.

(Ord. 1-A-1944. Passed 8-14-44.)

1341.07 ENFORCEMENT; COURT PROCEEDINGS.

In case of failure or refusal to comply with any such resolution of Council, the work required thereby may be done at the expense of the Municipality and the amount of money expended therefor shall be a valid claim against the owner, occupant or person in charge of the land, and a lien upon such land, which may be enforced by suit in any court of competent jurisdiction. Proceedings under this section shall not relieve any

party defendant from criminal prosecution or punishment for violation of any of the provisions of this chapter or any other provision of these Codified Ordinances.

(Ord. 1-A-1944. Passed 8-14-44.)

1341.08 DEFINITION; NUISANCE.

All buildings or structures which are structurally unsafe, not provided with adequate egress, which constitute a fire hazard, are otherwise dangerous to human life or which have remained vacant for over one year, which in relation to existing use constitute a hazard to health by reason of inadequate maintenance, dilapidation or obsolescence or do not conform to the provisions of this Building Code, are, for the purpose of this Building Code, "unsafe buildings". All such unsafe buildings are declared to be public nuisances and shall be abated by repair and rehabilitation or by demolition in accordance with the procedures found herein.

1341.09 NOTICE TO REPAIR OR DEMOLISH.

The Building and Zoning Inspector shall examine or cause to be examined every building or structure or portion thereof reported as or believed to be an unsafe building as defined in Section 1341.08. He shall give written notice to the owner of record, including any purchaser under a recorded land contract, and to the person occupying such building if he is not the owner thereof. The written notice shall specifically state the defects that cause the building to be unsafe and shall state that work shall commence within thirty days, either to complete specified repairs or improvements or to demolish and remove the building or structure, or portion thereof, leaving the premises in a clean, safe and sanitary condition, such condition being subject to the approval of the Inspector. However, in cases of emergency making immediate repairs necessary, the Inspector may order the changes or demolition to be made within a shorter period. The notice shall also require the building or portion thereof to be vacated forthwith by the occupants thereof.

1341.10 SERVICE OF NOTICE.

Proper service of such notice shall be served by personal service, residence service or by certified mail. Such notice shall be deemed to be properly delivered if a copy thereof is sent by certified mail to the last known address. If any of the parties cannot be located nor their address ascertained, the notice shall be deemed to be properly served if a copy thereof is placed in a conspicuous place in or about the building or structure affected by said notice. If such notice is sent by certified mail and is returned marked undeliverable, unable to forward, no forwarding address provided, unclaimed or refused for any reason, the notice shall be deemed to be properly served and the thirty day period within which the owner is required to comply with the order of the Building and Zoning Inspector shall commence from the last attempt delivery was made.

(Ord. 2014-20. Passed 8-25-14.)

1341.11 POSTING OF SIGNS.

The Building and Zoning Inspector shall cause to be posted at each entrance to such building a notice to read: "Do not enter. Unsafe to occupy. Building and Zoning Inspector, Village of Carrollton." Such notice shall remain posted until the required repairs are made or demolition is completed. No person shall enter the building except for the purpose of making the required repairs or of demolishing the same.

1341.12 PERMITS.

In all cases of construction or repair pursuant to orders of the Building and Zoning Inspector, permits covering such work shall be obtained as required by law.

1341.13 NONCOMPLIANCE; LEGAL AND EQUITABLE REMEDIES.

No owner of record or purchaser under a land contract shall fail, neglect or refuse to comply with the notice to repair, rehabilitate or demolish and remove such building or structure or portion thereof. In the event of failure, neglect or refusal, the owner or purchaser under a land contract shall be subject to the penalty provided in Section 1341.99. In addition, the Building and Zoning Inspector shall proceed to have the building or structure or portion thereof demolished and removed from the premises, leaving the premises in a clean, safe and sanitary condition, and the cost of such work shall be paid by the Village and the owner of record or purchaser under a land contract shall be responsible for reimbursement of all costs associated with such demolition and removal, including any administrative costs levied by the Village. If the Village is not reimbursed within thirty days of the demolition and removal the amount thereof shall be certified to the County Auditor and levied as a special assessment against such property on which the building or structure or portion thereof had been located and shall be collected in the manner provided for special assessments. The Village may, at its discretion, utilize any and all resources within its own means to demolish and remove any such building, structure or portion thereof.

(Ord. 2014-20. Passed 8-25-14.)

1341.14 UNSAFE CONDITIONS; REPORTS.

Any owner, manager, lessee or occupant of a building who discovers or who has reason to believe that there exists on the premises a condition which may endanger other property or the life or limb of any person, and that such condition cannot be immediately remedied so as to remove any danger therefrom, shall, within twenty-four hours after such discovery, report the existence of such dangerous condition to the Building and Zoning Inspector who shall forthwith take such steps as may be necessary to protect the public safety and welfare. If the Inspector cannot be located, such report shall be made to the Chief of Police. No person who is an owner, manager, lessee or occupant of a building on which premises such a dangerous condition exists and who knows or should know of such dangerous condition shall fail to make such report to either the Inspector or the Chief of Police within twenty-four hours after such knowledge is obtained or should have been obtained.

1341.15 APPEALS.

The owner, agent or person in charge of any dwelling structure shall have the right to appeal from any notice issued by the Building and Zoning Inspector, within the time specified in such notice for compliance therewith, and to appear before the Board of Zoning Appeals at a specified time and place to show cause why he should not comply with such notice. Failure to file an appeal within the time prescribed shall constitute a waiver of the right to appeal. Filing of an appeal from any notice of the Inspector shall suspend action on enforcement of such notice until the appeal is acted upon by the Board.

1341.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter shall be guilty of a minor misdemeanor and fined not more than one hundred dollars (\$100.00). Each day a violation continues or occurs shall constitute a separate offense.

CHAPTER 1345

Fire Limits

1345.01 Description of limits.

1345.02 Limitations within fire limits.

1345.99 Penalty; equitable remedy.

CROSS REFERENCES

Power to regulate building erection - see Ohio R.C. 715.26, 715.29, 737.37

Power to regulate against fires - see Ohio R.C. 737.21, 737.27

Fire limits - see Ohio R.C. 737.28

Inspection of buildings for fire and safety - see Ohio R.C. 737.34 et seq., 3737.14

Ohio Fire Code - see FIRE PREV. Ch. 1501

1345.01 DESCRIPTION OF LIMITS.

The following are hereby declared to be the fire limits: Beginning at the west side of South Lisbon street at the intersection of an alley adjacent to the southeast corner of Lot No. 31, Atkinson's First Addition; thence west along such south alley to intersect South High street; thence north along South High street to intersect Second Street, S. W.; thence west on Second Street, S. W. to the alley adjacent to the southwest corner of Lot No. 12, Atkinson's First Addition; thence north along such alley to intersect Second Street, N. W.; thence east along Second Street to an alley adjacent to the northeast corner of Lot No.2, Atkinson's Extension to North Street (Second Street); thence south along such alley to the southeast corner of Lot No. 2 aforesaid at its intersection with an alley; thence east along an alley to intersect East Alley and adjacent to the northeast corner of Lot No. 41, original; thence south along East Alley to the southeast corner of Lot No. 46, Atkinson's First Addition, at its intersection with South Alley; thence west along South Alley to the place of beginning.
(Ord. 1951-9. Passed 12-10-51.)

1345.02 LIMITATIONS WITHIN FIRE LIMITS.

(a) Within the fire limits, no building or structure of frame construction or of unprotected metal construction shall be extended on any side unless the construction of such extension conforms to the requirements of this Part Thirteen - Building Code for new construction, provided that the area of the building as extended does not exceed the allowable area for frame construction.

(b) No building of frame construction or unprotected metal construction shall be moved from without to within the fire limits.

(c) No building or structure of frame construction or of unprotected metal construction, or which has a wooden cornice, shall be erected in the fire limits, except the following:

- (1) Frame dwellings not exceeding two stories in height and separated by at least ten feet from the lot line of adjoining property;
- (2) All-metal gasoline service stations or similar structures not exceeding 1,000 square feet in area, not more than one story in height, and located at least ten feet from lot lines;
- (3) A building of frame construction or of unprotected metal construction occupied exclusively as a private garage or stable, not more than one story in height nor more than 750 square feet in area, located on the same lot with a dwelling, provided that such building is placed at least three feet from the lot line;
- (4) Outhouses not more than eight feet in height nor more than 100 square feet in area;
- (5) Greenhouses not more than fifteen feet in height erected on the same lot with and accessory to a dwelling or a store;
- (6) Sheds open on the long side, not more than fifteen feet in height nor more than 500 square feet in area;
- (7) Builder's shanties for use only in connection with a duly authorized building operation and located on the same lot with such building operation, on a lot immediately adjoining on an upper floor of the building under construction, or on a sidewalk shed;
- (8) Piazzas or balconies on dwellings, not exceeding ten feet in width nor extending more than three feet above the second story floor beams, provided that no such structure extends beyond a point within three feet of a lot line or is joined to a similar structure of another building;
- (9) Coal tipples, ice houses, material bins, trestles and water tanks, when built of planking and timbers of the dimensions usual for heavy timber construction;
- (10) Fences not exceeding ten feet in height; and
- (11) Cooling towers not in excess of 250 square feet in base area and fifteen feet in height. (Ord. 1951-9. Passed 12-10-51.)

1345.99 PENALTY; EQUITABLE REMEDY.

(a) Whoever violates or fails to comply with any of the provisions of this chapter shall be fined not more than one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(b) The application of the penalty provided in subsection (a) hereof shall not prevent the enforced removal of prohibited conditions.

CHAPTER 1349

Flood Damage Reduction

1349.01 General provisions.

1349.02 Definitions.

1349.03 Administration.

1349.04 Use and development standards for flood hazard reduction.

1349.05 Appeals and variances.

1349.06 Enforcement.

CROSS REFERENCES

Construction permits and prohibitions for dams, dikes or levees - see Ohio R.C. 1521.06

Marking flood areas - see Ohio R.C. 1521.14

1349.01 GENERAL PROVISIONS.

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

(b) Findings of Fact. The Village of Carrollton, Ohio 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 Village of Carrollton, Ohio as identified in subsection (f) hereof, including any additional areas of special flood hazard annexed by Village of Carrollton, Ohio.

(f) Basis for Establishing the Areas of Special Flood Hazard. For the purposes of these regulations, the following studies and / or maps are adopted:

(Ord. 2007-58. Passed 12-10-07.)

- (1) Flood Insurance Study Carroll County, Ohio and Incorporated Areas and Flood Insurance Rate Map Carroll County, Ohio and Incorporated Areas, both effective June 4, 2010. (Ord. 2010-4. Passed 3-22-10.)
- (2) Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the Village of Carrollton, Ohio as required by Section 1349.04(c) Subdivisions and Large Scale Developments.
- (3) 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 Office of Regional Planning 119 S. Lisbon Street, Suite #106, Carrollton, Ohio 44615.

(g) 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 regulations 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 Village of Carrollton, Ohio, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage 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. 2007-58. Passed 12-10-07.)

1349.02 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:
 - (1) Zone A: Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.
 - (2) Zones A1-30 and Zone AE: Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.
 - (3) 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.
 - (4) 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.
 - (5) 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.
 - (6) 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.
 - (7) 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 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.
 - (1) 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.
 - (2) 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 Village of Carrollton, Ohio's historic preservation program, which program is 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. LOMCs are broken down into the following categories:
 - (1) 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.
 - (2) 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.
 - (3) 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 floor" 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 Village of Carrollton, Ohio Flood Insurance Rate Map, August 19, 1985, 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 that 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 would 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. 2007-58. Passed 12-10-07.)

1349.03 ADMINISTRATION.

(a) Designation of the Floodplain Administrator. The Building and Zoning Inspector 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 1349.01(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 1349.04(e).
 - B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1349.04(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 1349.04(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 1349.04(i)(2).
 - E. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section 1349.04(i)(1).
 - F. Generation of base flood elevation(s) for subdivision and large-scale developments as required by Section 1349.03(c).
- (6) A Floodplain Development Permit Application and Fee are hereby established. The fee will be one hundred dollars (\$100.00) and made payable to the Village of Carrollton upon submission of an application for a building permit prior to the commencement of any construction or activity within the designated area.
- (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 Section 1349.03(d) 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 standards of Section 1349.03(j)(1), 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 Zoning Board of Appeals in accordance with Section 1349.05 of these regulations.
- (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 five thousand dollars (\$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 Siting 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 that Village of Carrollton flood maps, studies and other data identified in Section 1349.01(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 1349.04(c).
- B. It is the responsibility of the applicant to have technical data, required in accordance with Section 1349.03(j)(1), 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 Section 1349.03(j)(1)A.

(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 for the Village of Carrollton, Ohio, 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 Village of Carrollton, Ohio 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 Village of Carrollton Flood Insurance Rate Map accurately represent the Village of Carrollton, Ohio boundaries, include within such notification a copy of a map of the Village of Carrollton, Ohio suitable for reproduction, clearly showing the new corporate limits or the new area for which the Village of Carrollton, Ohio 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 1349.05, 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.

(l) 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. 2007-58. Passed 12-10- 07.)

1349.04 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 1349.01(f) or 1349.03(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 Village of Carrollton, Ohio 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 floodwaters 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 requirement to submit technical data to FEMA in Section 1349.03(j)(1)A.4. when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section 1349.04(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 Section 1349.04(d).

- (e) Nonresidential Structures.

- (1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of subsections (d)(1) - (3) and (5) - (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 Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Section 1349.04(e)

(2)A. and B.

- (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 floodwaters;
 - (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 Section 1349.04(d)(5)C.
- (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 Section 1349.04(d).
- (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 1349.03(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 that 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 for the Village of Carrollton, Ohio 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. Section 1349.04(i)(1B., items 1. and 3. - 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 bankfull 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 bankfull 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 Village of Carrollton, Ohio 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 1349.03(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. 2007-58. Passed 12-10-07.)

1349.05 APPEALS AND VARIANCES.

(a) Zoning Board of Appeals Established.

- (1) The Council for the Village of Carrollton shall appoint a Zoning Board of Appeals consisting of all members of Council excluding the President Pro- Tem. The members shall serve a one year term after which time they shall be reappointed or replaced by the Council. Each member shall serve until his/her successor is appointed.
- (2) A chairperson shall be elected by the members of the Zoning Board of Appeals at their first regular meeting of the year. Meetings of the 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 Zoning Board of Appeals 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 Zoning Board of Appeals 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 Zoning Board of Appeals shall be kept and filed by the Clerk of the Village of Carrollton at 80 Second Street S.W. Carrollton, Ohio.

(b) Powers and Duties.

- (1) The Zoning Board of Appeals 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 Zoning Board of Appeals provided that such person shall file, within 30 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 Zoning Board of Appeals.
- (2) Upon receipt of the notice of appeal, the Zoning Board of Appeals 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 Zoning Board of Appeals 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 Zoning Board of Appeals.
- 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.

- (2) Notice for Public Hearing. The Zoning Board of Appeals 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 Zoning Board of Appeals requires. In considering such variance applications, the Zoning Board of Appeals 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 that 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 floodwaters 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 Zoning Board of Appeals 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 subsections (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 proffered 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 Zoning Board of Appeals may appeal such decision to the Carroll County Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.
(Ord. 2007-58. Passed 12-10-07.)

1349.06 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 1349.03(i).
 - (2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with subsection (c) 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 (c) 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 first 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 Village of Carrollton, Ohio. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Village of Carrollton, Ohio from taking such other lawful action as is necessary to prevent or remedy any violation. The Village of Carrollton, Ohio shall prosecute any violation of these regulations in accordance with the penalties stated herein.
(Ord. 2007-58. Passed 12-10-07.)

CODIFIED ORDINANCES OF CARROLLTON

PART FIFTEEN - FIRE PREVENTION CODE

Chap. 1501. Ohio Fire Code.
Chap. 1511. Open Burning.
Chap. 1519. Fireworks.

CHAPTER 1501

Ohio Fire Code

- 1501.01 Adoption.**
- 1501.02 Purpose.**
- 1501.03 Application.**
- 1501.04 Enforcement.**
- 1501.05 Compliance.**
- 1501.06 Posting arson laws.**
- 1501.07 Setting fires which spread.**
- 1501.08 Unfriendly fires in buildings; alarm duties.**
- 1501.09 Disclosure of true Fire Safety Inspector status.**
- 1501.10 Fire equipment sale or use; certification of installers.**
- 1501.11 Copies.**
- 1501.12 Conflict.**
- 1501.99 Penalty.**

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, 3737.33
State certification of Fire Safety Inspectors - see Ohio R.C. 3737.01(C), 3737.34

Fire investigation - see Ohio R.C. 737.27, 3737.24 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.

1511.02 Relations to other prohibitions.

1511.03 Open burning in restricted areas.

1511.04 Permission to individuals and notification to the Ohio EPA.

1511.05 Open burning; recreational fires; portable outdoor fireplaces.

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 1519

Fireworks

1519.01 Definitions.

1519.02 Public exhibition permit required; fee; bond; records.

1519.03 Unlawful conduct by exhibitor.

1519.04 Possession, sale or discharge prohibited; exceptions.

1519.05 Application.

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) Except as otherwise provided in Ohio R.C. 3743.44, 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 fusees, 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))