

CITY OF OBERLIN, OHIO

ORDINANCE No. 14-51 AC CMS

AN ORDINANCE TO APPROVE AND ADOPT THE REPLACEMENT PAGES TO THE CODIFIED ORDINANCES AND DECLARING AN EMERGENCY

WHEREAS, certain provisions within the Codified Ordinances should be amended to conform with current State law as required by the Ohio Constitution; and

WHEREAS, various ordinances of a general and permanent nature have been passed by Council which should be included in the Codified Ordinances; and

WHEREAS, the City has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such revision which is presently before Council:

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, a majority of all members elected thereto concurring:

SECTION 1. That the recodification, editing, arrangement and numbering or renumbering of the following ordinances and parts of ordinances are hereby approved as parts of the various component codes of the Codified Ordinances of Oberlin, Ohio, within the 2014 Replacement Pages, so as to conform to the classification and numbering system of the Codified Ordinances, to-wit:

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
13-03AC CMS	1-22-13	111.04
13-15AC CMS	3-18-13	129.04, 129.05
13-23AC CMS	4-1-13	145.07
13-27AC CMS	5-6-13	925.01 to 925.17, 925.99
13-31AC CMS	5-6-13	181.03, 181.13(d)
13-43AC CMS	8-19-13	331.12
13-44AC CMS	9-16-13	927.07
13-66AC CMS	11-19-13	Repeals 549.02 to 549.07, 549.10, 549.12
14-02AC CMS	1-21-14	181.03, 181.13
14-07AC CMS	4-7-14	1501.25
14-14AC CMS	4-7-14	909.02
14-16AC CMS	4-21-14	925.10
14-19AC	6-16-14	1111.01
14-20AC	6-2-14	506.01 to 506.06, 506.99
14-22AC	7-7-14	927.29

SECTION 2. That the following sections and chapters are hereby added, amended or repealed as respectively indicated in order to comply with current State law:

Traffic Code

301.04	Bicycle. (Amended)
303.041	Emergency, Public Safety and Coroner's Vehicles Exempt. (Amended)
313.03	Traffic Signal Indications. (Amended)
333.01	Driving or Physical Control While Under the Influence. (Amended)
333.03	Maximum Speed Limits. (Amended)
333.11	Texting While Driving Prohibited. (Added)
335.032	Electronic Wireless Communication Device Prohibited. (Added)
339.01	Oversize or Overweight Vehicle on State Routes. (Amended)
339.03	Maximum Width, Height and Length. (Amended)
341.01	Commercial Vehicle Definitions. (Amended)
341.03	Prerequisites to Operation of a Commercial Motor Vehicle. (Amended)
341.05	Commercial Drivers' Criminal Offenses. (Amended)
351.04	Parking Near Curb; Handicapped Parking. (Amended)
373.02	Riding Upon Seats; Handle Bars; Helmets and Glasses. (Amended)

General Offenses Code

501.01	Definitions. (Amended)
501.02	Classification of Offenses. (Amended)
501.11	Organizational Criminal Liability. (Amended)
513.01	Drug Abuse Definitions. (Amended)
513.03	Drug Abuse; Controlled Substance Possession. (Amended)
517.01	Gambling Definitions. (Amended)
517.02	Gambling. (Amended)
525.01	Law Enforcement and Public Office Definitions. (Amended)
525.02	Falsification. (Amended)
525.05	Failure to Report a Crime, Injury or Knowledge of Death. (Amended)
529.01	Liquor Control Definitions. (Amended)
529.07	Open Container Prohibited. (Amended)
537.03	Assault. (Amended)
537.12	Misuse of 9-1-1 System. (Amended)
537.17	Criminal Child Enticement. (Amended)
545.01	Theft and Fraud Definitions. (Amended)
545.05	Petty Theft. (Amended)
545.18	Receiving Stolen Property. (Amended)

SECTION 3. The complete text of the sections of the Codified Ordinances listed above are set forth in full in the current Replacement Pages to the Codified Ordinances which are hereby attached to this ordinance as Exhibit A. Any summary publication of this ordinance shall include a complete listing of these sections. Notice of adoption of each new section by reference to its title shall constitute sufficient publication of new matter contained therein.

SECTION 4. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 5. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City and its inhabitants for the reason that there exists an imperative necessity for the earliest publication and distribution of current Replacement Pages to the officials and residents of the City, so as to facilitate administration, daily operation and avoid practical and legal entanglements. Therefore this Ordinance shall become effective immediately.

PASSED: 1st Reading: September 15, 2014 (E)

2nd Reading: _____

3rd Reading: _____

ATTEST:



BELINDA B. ANDERSON, MMC
CLERK OF COUNCIL



H. SCOTT BROADWELL
PRESIDENT OF COUNCIL

POSTED: 09/16/2014

EFFECTIVE DATE: 09/15/2014

INSTRUCTIONS FOR INSERTING
2014 REPLACEMENT PAGES
FOR THE
CODIFIED ORDINANCES OF OBERLIN

All new replacement pages bear the footnote "2014 Replacement". Please discard old pages and insert these new replacement pages immediately as directed in the following table.

Discard Old Pages

Insert New Pages

PRELIMINARY UNIT

<u>Discard Old Pages</u>	<u>Insert New Pages</u>
Cover and Certification Page	Cover and Certification Page
3, 4	3, 4
11, 12	11, 12
19 through 24	19 through 24
27, 28	27, 28
31 through 32F	31 through 32F
43, 44	43, 44

PART ONE - ADMINISTRATIVE CODE

15, 16	15, 16
23, 24	23, 24
41, 42	41, 42
67, 68	67, 68
77, 78	77, 78

PART THREE - TRAFFIC CODE

3, 4	3, 4
15, 16	15, 16
33, 34	33, 34
45, 46	45, 46
71 through 74	71 through 74
76A, 76B (Keep 76C, 76D)	76A, 76B
77 through 80	77 through 80
82C	82C
87 through 90	87 through 90
125 through 128	125 through 128
135 through 140	135 through 140
147 through 150	147 through 150
163, 164	163, 164

Discard Old Pages

Insert New Pages

PART FIVE - GENERAL OFFENSES CODE

5 through 8	5 through 8
11, 12	11, 12
20C through 20G	20C through 20G
27 through 34 (Keep 34A to 34G)	27 through 34
35 through 40	35 through 40
43 through 44B	43 through 44B2
49 through 52	49 through 52
54A, 54B	54A, 54B
59, 60	59, 60
62C through 62F	62C through 62F
74C through 76	74C through 76
76I, 76J	76I, 76J
76O, 76P	76O, 76P
81, 82	81, 82
89, 90	89, 90
90E through 96H	90E through 94

PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

13, 14	13, 14
53 through 62	53 through 62
65	65

PART ELEVEN - BUILDING CODE

9 through 12B	9 through 12B
79, 80	79, 80
80C, 80D	80C, 80D

PART THIRTEEN - PLANNING AND ZONING CODE

101, 102	101, 102
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PART FIFTEEN - FIRE PREVENTION CODE

10G through 10P	10G through 10P
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**CODIFIED
ORDINANCES
OF THE
CITY OF
OBERLIN, OHIO**

Complete to July 7, 2014

CERTIFICATION

We, H. Scott Broadwell, President, and Belinda B. Anderson, MMC, Clerk of the Council, of the City of Oberlin, Ohio, pursuant to Section IX of the City Charter and Ohio R.C. Sections 731.23 and 731.42, hereby certify that the general and permanent ordinances of the City of Oberlin, Ohio, as revised, arranged, compiled, numbered, codified and printed herewith in component codes, are correctly set forth and constitute the Codified Ordinances of the City of Oberlin, Ohio, 1977, complete to July 7, 2014.

/s/ H. Scott Broadwell
President

/s/ Belinda B. Anderson, MMC
Clerk of Council

CITY OF OBERLIN
ROSTER OF OFFICIALS
(2014)

COUNCIL

H. Scott Broadwell, President
Sharon Fairchild-Soucy, Vice President

Bryan Burgess
Elizabeth J. Meadows
Sharon Pearson
Kristin Peterson
Ronnie Rimbart

OFFICIALS

Eric P. Norenberg, ICMA-CM
Jon Clark, ESQ.
Salvatore Talarico, CPFA
Belinda B. Anderson, MMC
Thomas A. Miller
Dennis Kirin
Jeffrey Baumann
Gary Boyle
Steve Dupee
Wanda Davis

City Manager
Law Director
Finance Director
Clerk of Council
Police Chief
Fire Chief
Public Works Director
Director of Planning and Development
Director, OMLPS
Assistant City Manager/HR
Administrator

THE WALTER H. DRANE COMPANY
expresses its appreciation to

BELINDA B. ANDERSON, MMC
Clerk of Council

for her assistance in the
preparation of these
Codified Ordinances and periodic
Replacement Pages therefor.

BICYCLE (Cont.)				BUDGET AND STRATEGIC PLANNING	
paths, vehicles on	373.13			ADMINISTRATIVE	
penalty	373.99			COMMITTEE	
reckless operation	373.02(d), 373.08			established	153.01
reflector	371.06			purpose	153.02
registration	373.11			BUILDING	
riding abreast	373.04			nonconforming uses	1347.02
riding on sidewalk in Business District	373.10			BUILDING DIVISION	
right side of street	373.07			appointment; qualifications	140.02
seat, use	373.02			creation; powers	140.01
Traffic Code application	373.01			BUILDING PERMIT	
traffic rules, obedience	373.07			digital/electronic drawing file submissions	1501.27
vehicle, attaching to	373.03			fees	
BILLPOSTING (see ADVERTISING)				electrical	1111.04
BINGO				plumbing	1111.03
definitions	517.01(r) et seq.			power; appliances	1111.05
exceptions	517.13			refunds	1111.02
instant bingo				residential	1111.01
charitable organizations	517.09			off-street parking and loading compliance	1349.01
conduct	517.07			owner, contractor responsibilities	1113.02
location	517.10			required prior to work	1113.01
veteran's or fraternal organization	517.14			zoning requirement	1323.01 et seq.
methods of conducting	517.06			BUMPERS	
operator prohibitions	517.12			heights	337.29
raffles	517.08			required	337.01(d)
records	517.11			BUS (see also COMMERCIAL AND HEAVY VEHICLE)	
BLACKJACK (see WEAPONS)				commercial	
BLASTING				parking regulations	741.02
permit required	549.13			routes	741.01
BLIND PERSON				soliciting passengers	741.03
right of way	371.02			turning restrictions	741.04
BOARDING HOUSES (see ROOMING HOUSES)				defined	301.05
BOARDS AND COMMISSIONS (see also specific subject)				school bus	
creation of new	Chtr. VII			children, discharging	331.38
members' appointment; terms	Chtr. XIX			defined	301.35
BOND				driving regulations	331.38
fireworks exhibition	1519.02			stopping for	331.38
BOUNDARIES				stops, parking in	351.10
zoning districts	1329.02			BUSINESS DISTRICT (see also C DISTRICTS)	
BOWLING ALLEYS				bicycle riding on sidewalk	373.10
hours	711.01			defined	301.06
BRAKES (see VEHICLE EQUIPMENT)				dumpster service	925.16
BRASS KNUCKLES (see WEAPONS)				parking overnight in	351.14
BRIDGE				parking regulated	351.17
dropping objects onto highway or waters	541.10				
pedestrian on	371.10				
speed on	333.05				

C-1 CENTRAL BUSINESS DISTRICT		
area, height and yard		
regulations	1341.04	
dumpster service	925.16	
established; purpose	1341.01	
uses	1341.02, 1341.03	
C-2 GENERAL BUSINESS DISTRICT		
area, height and yard		
regulations	1342.04	
established; purpose	1342.01	
uses	1342.02, 1342.03	
C-3 PLANNED HIGHWAY COMMERCIAL DISTRICT		
dimension regulations	1340.04	
purpose	1340.01	
special provisions	1340.05	
uses	1340.02, 1340.03	
CDD CONSERVATION DEVELOPMENT DISTRICT		
area regulations	1344.04	
density	1344.03	
design standards	1344.05	
Development Plan		
Requirements	1344.06	
established	1344.01	
open space	1344.03	
permitted uses	1344.02	
purpose	1344.01	
variances	1344.07	
CABLE TELEVISION (see CATV)		
CAMPING		
parks, prohibited in	927.04	
CARRYING CONCEALED WEAPONS		
	549.02	
CAT (see ANIMALS)		
CATTLE (see ANIMALS)		
CATV		
regulations adopted	775.01	
CEMETERY (see WESTWOOD CEMETERY)		
CERTIFICATE OF TITLE		
motor vehicle	335.08	
off-highway motorcycle, all purpose vehicle	375.08	
CHARTER		
amendment procedure	Chtr. XXI	
effect on pre-existing rights	Chtr. XXVII	
effective date	Chtr. XXII	
reprinting of	Chtr. XXIX	
severability	Chtr. XXVI	
CHARTER REVIEW COMMITTEE		Chtr. XXVIII
CHEATING	517.05	
CHILD ENTICEMENT, CRIMINAL		537.17
CHILD RESTRAINT SYSTEM		337.26
CIGARETTES (see TOBACCO PRODUCTS)		
CITATION TAGS		501.13
CITY		
boundaries; name	Chtr. I	
powers	Chtr. II	
datum plane; grades	103.02	
official seal	103.01	
CITY MANAGER		
appointment; acting	Chtr. V	
bond	145.01	
checks, signing	121.01	
living quarters	121.04	
mutual aid, electric systems	121.02	
powers and duties	Chtr. XVI	
removal	Chtr. VI	
CIVIL RIGHTS		
ethnic intimidation	541.08	
interfering with	525.13	
CIVIL SERVICE		
Commission members; terms	Chtr. XIX A, B	
exams; promotions; probation	Chtr. XIX G	
rules and regulations	ed. note, Ch. 135	
CLAIRVOYANCY		517.15
CLEAN INDOOR AIR		
areas not regulated	506.05	
declaration of establishment as nonsmoking; signs	506.03	
definitions	506.01	
enforcement	506.04	
general provisions	506.06	
penalty	506.99	
prohibition	506.02	
CLERK		
appointment; duties	Chtr. XV	
bond	145.01	
checks, signing	123.01	

FIREARM (see WEAPONS)		FIRE PREVENTION CODE (Cont.)	
FIRE CHIEF		compliance	1501.10
Emergency Hazardous Material		conflict	1501.12
Manager, as	143.05	copies	1501.11
inspections	1509.01	digital/electronic drawing	
FIRE DEPARTMENT		file submissions	1501.27
age for eligibility for	143.04	disclosure of true Fire Safety	
assistance mandatory	1509.04	Inspector status	1501.16
City Manager is head of	143.02	elevators	1501.22
Fire Driver, eligibility	143.04	enforcement	1501.09
operate police radio	143.03	equipment sale or use;	
personnel	143.01	installers certified	1501.17
Volunteer Firefighter's		explosives, flammable and	
Dependents Board	143.06	combustible liquids	1501.18
FIRE EXTINGUISHER		fire hydrants	1501.20
rooming houses	1353.10	fire lanes	1501.19
FIRE HOSE		inspections, right of entry	1501.07
driving over	331.28	liquefied petroleum gas	1501.18
FIRE HYDRANT		lock box systems; key box	1501.21
billposting on	911.22	maximum capacity in public	
damaging	1509.12	buildings; posting	1501.24
obstructing	911.21, 1509.12	order for abatement, remedy	
opening	911.18	or removal	1501.08
regulations	1501.20	penalty	1501.99
turning on	1509.12	permits; fees	1501.25
FIRE LANES	1501.19	purpose	1501.03
FIRE LIMITS		setting fires which spread	1501.14
compliance with National		smoke detectors	1501.23
Building Code	1105.02	unfriendly fires; alarm duties	1501.15
described	1105.01	water supply	1501.20
zoning permit		FIRE TRUCK	
appeal of refusal	1105.04	approaching when stationary	333.031
requirements prior to		following, parking near	331.27
issuance	1105.03	FIRES	
FIREMAN		in buildings; alarm	
medical examination required	143.03	duties	1501.15
traffic, directing	303.02(a)	parks, in	927.08
FIRE PREVENTION CODE		spreading; setting	1501.14
adoption	1501.01	FIREWORKS (see also EXPLOSIVES)	
alarms	1501.23	definitions	1519.01
amendments	1501.02	exceptions to	
appeals	1501.26	regulations	1519.04, 1519.05
application	1501.04	parks, in	927.06
arson laws, posting	1501.13	penalty	1519.99
Bureau of Fire Prevention		possession; sale; discharge	1519.04
duties	1501.06	public exhibition permit	
established	1501.05	exhibitor's conduct	1519.03
		fee; bond; records	1519.02

FISHING			FREEWAY (see STREET)	
in reservoirs	923.01		FUNCTIONALLY IMPAIRED PERSONS	
parks, in	927.09		(see HANDICAPPED PERSONS)	
FLAMMABLE LIQUIDS			FUNDS	
liquefied petroleum gas	1501.18		Tree Planting Trust Fund	907.15
FLOOD DAMAGE PREVENTION			FUNERAL PROCESSION	
abrogation and greater			driving in	331.24
restrictions	1191.03(d)		GAMBLING	
administration	1191.04		bingo (see BINGO)	
administrator; duties	1191.05		cheating	517.05
applicable lands	1191.03(a)		definitions	517.01
compliance	1191.03(c)		games of chance	
definitions	1191.02		conducting	517.02(d)
development permit	1191.04(a), (b)		records	517.11
flood hazard areas,			operating house	517.03
establishing	1191.03(b)		parks, in	927.10
flood hazard reduction			prohibited conduct	517.02
standards	1191.07, 1191.08		public gaming	517.04
floodways	1191.09		raffles	517.08
general provisions	1191.03		skill-based amusement devices	517.16
interpretation	1191.03(e)		GARAGE SALES	
methods of reducing flood			definitions	785.01
losses	1191.01(d)		hours	785.06
penalty	1191.99		penalty	785.99
purpose and objectives	1191.01		permit	
statutory authorization; findings			application; issuance	785.03
of fact	1191.01		display	785.05
variance procedure	1191.06		period	785.04
warning and disclaimer of			required	785.02
liability	1191.03(f)		revocation	785.07
FOOD			GARBAGE AND RUBBISH	
adulterated	537.13		burning prohibited	925.05, 1505.02
FORGERY			collection	
identification card	545.20		commercial establishments	925.08
FORTUNETELLING	517.15		residences	925.06
FOWL (see also ANIMALS)			schedule	925.04
coloring; sale or display	505.12		containers	925.03
running at large	505.01		deposits on public, private	
FRANCHISES			property	521.08
granting procedure;			dumpsters	
renewal	Chtr. XXIII		Central Business District	925.16
FRAUD			temporary	925.14
bad check passing	545.09		unauthorized use	925.17
credit card	545.10		large trash pickup	925.09
creditors	545.17		materials prohibited	925.13
definitions	545.01		organics recovery	925.05
personating an officer	545.16		paper to be separated	925.07
securing writings by deception	545.15		parks, in	927.19

GARBAGE AND RUBBISH (Cont.)		HISTORIC LANDMARKS AND BUILDINGS	
penalty	925.99	definitions	1187.04
preparing for collection	925.02	penalty	1187.99
rates	925.10	procedures	
recyclables	925.11, 925.12	historic districts	1187.08
Resources Recovery Committee	925.15	landmarks	1187.07
scavenging of recyclables	925.11	review of alteration	1187.09
types collectible	925.01	Preservation Commission	
GAS		duties	1187.03
editor's note	Ch. 917	established	1187.02
energy efficiency	131.02	purpose	1187.01
GENERAL MAINTENANCE		standards	
SUPERINTENDENT	130.01	historic district	1187.06
GRADE CROSSINGS		landmarks	1187.05
slow-moving vehicles or		HITCHHIKING	371.06
equipment at	331.405	HOMICIDE	
GROUNDS DEPARTMENT		negligent	537.01
tree planting and care	907.02	vehicular	537.02
HALLOWEEN		HORN (see VEHICLE EQUIPMENT)	
adulterated food	537.13	HORSES (see ANIMALS)	
HANDICAPPED PERSONS		HOSPITAL	
assaulting service dogs	541.09	Board of Governors; Trustees Chtr. XX	
failing to provide for	537.25	fires (see FIRES)	
mobility device	371.12	HOTELS	
HAZARDOUS MATERIAL MANAGER		fires (see FIRES)	
(see EMERGENCY HAZARDOUS		HOUSING	
MATERIAL MANAGER)		intimidation in connection with	537.24
HAZING	537.23	HOUSING RENEWAL COMMISSION	
HEALTH SERVICES		appeals	1173.03
editor's note	Ch. 137	appeal to Council	1173.05
HEATING		composition, appointment, term	1173.01
fee schedule	1111.01	further powers	1173.06
HEIGHT REGULATIONS		hearings	1173.02
exceptions and modifications	1345.02	preparation of electrical	
zoning districts		licensing examinations	1147.02
CDD	1344.04	quorum, rules	1173.02
C-1	1341.04	records	1147.03
C-2	1342.04	variances	1173.04
C-3	1340.04	HUMAN RELATIONS COMMISSION	
M-1	1343.07	creation; members	149.01
O	1346.04	duties	149.02
P-1	1339.05	HUMAN RESOURCES DEPARTMENT	
R-1	1335.04	creation; personnel	161.01
R-1A	1331.04	HUNTING	505.10
R-1B	1333.04	HYPODERMIC	513.11
R-2	1337.04		
HIGHWAY (see STREET)			

IDENTIFICATION CARD		INSURANCE	
forgery	545.20	driving without	335.072
IMPERSONATION		INTERNATIONAL PROPERTY	
law enforcement officer		MAINTENANCE CODE (see	
to defraud	545.16	PROPERTY MAIN-	
peace officer, private police		TENANCE CODE)	
officer	525.03	INTERSECTION	
IMPORTUNING	533.05	defined	301.17
IMPOUNDING		obstructing	331.33
bicycle	373.99	right of way	331.16, 331.17
dogs	505.02	stop signs	313.02
release of vehicle	303.083	turning at	331.10
vehicle on private property	303.081	INTIMIDATION	
vehicle, traffic violation	303.08	in connection with housing	537.24
IMPROVEMENTS		INTOXICANTS	
subdivisions	1311.06, 1315.02 et seq.	age warning signs	529.06
INCOME TAX (see also INCOME TAX		conveying onto grounds of	
RULES)		detention facilities	
collection		or other institutions	529.09
after termination	181.17	definitions	529.01
at source	181.05	hours of sale or consumption	529.08
delinquent tax	129.04	intoxicated persons, sales to	529.03
unpaid tax	181.11	minors	
City Treasurer; duties	181.08	age warning signs	529.06
credit for tax paid		sales prohibitions and	
other municipalities	181.07	misrepresentation	529.02, 529.10
declarations	181.06	motor vehicle, in	
definitions	181.01	consumption; open container	529.04
effective period	181.03	open container	
exemptions	181.16	prohibited	529.04, 529.07
Finance Director; duties;		parks, in	928.02
investigative powers	181.08, 181.09	permit for sale or manufacture	529.05
funds, allocation of	181.13	sale of low-alcohol beverages to	
imposition	181.02	underage persons	529.10
interest and penalties	181.10	INTOXICATION	
penalty	181.12	criminal liability	501.07
purpose	181.02	disorderly conduct	509.03
refunds	181.11	driving while intoxicated,	
return and payment	181.04	testing	333.01, 341.05, 341.08
rules and regulations	181.18	walking on street	371.09
Review Board	181.14	INVASION OF PRIVACY	
savings clause	181.15	voyeurism	533.06
violations	181.12	INVESTMENTS	
INDECENCY (see SEXUAL OFFENSES;		policy	127.03
OBSCENITY)		surplus funds, of	127.01
INITIATIVE	Chtr. XXIV	JAYWALKING	371.03
INSULATION (see DWELLING			
INSULATION)			

JUNK MOTOR VEHICLE			
impounding	303.08		
public or private			
property	303.09, 303.10		
JURISDICTION	501.05		
JUVENILE (see also MINOR)			
criminal enticement	537.17		
delinquency, contributing to	537.18		
material harmful to			
deception to obtain	533.12		
displaying	533.13		
disseminating	533.11		
KEY BOX SYSTEM	1501.21		
KEYS			
parking, removal driver	351.07		
law enforcement officer	303.03		
LANDSCAPING			
subdivisions	1315.14		
LANES, FIRE	1501.19		
LAW DIRECTOR			
Assistant Law Director			
and Prosecutor	129.03		
collection of delinquent City			
income taxes	129.04		
compensation, additional	129.05		
position established	Chtr. XVIII		
signing checks			
for Finance Director	129.02		
for Treasurer	129.01		
LAW ENFORCEMENT (see individual subject involved)			
LAW ENFORCEMENT OFFICER (see also PUBLIC SERVANT)			
authority re drunk driving	341.08		
defined	501.01		
dereliction of duty	525.12		
failure to aid, resisting	525.06		
hampering at emergency	509.05		
ignition key removal	303.03		
misconduct, false allegation of	525.15		
personating	545.16		
refusal to disclose personal			
information to in public			
place	525.16		
traffic order, compliance with	303.01		
LEAVES			
collection of; burning prohibited	925.05		
LIABILITY			
criminal intoxication	501.07		
LIBRARY			
rights; property damage	545.04		
LICENSE			
debt pooling company	721.04		
driving (see DRIVER'S LICENSE)			
mechanical amusement device	731.02		
peddler's	751.01		
plumbing	1121.03, 1127.01		
rooming house	1353.02 et seq.		
sexually orientated businesses	791.04		
taxicab business	771.02		
LICENSE PLATES			
display	335.09		
expired or unlawful; out of state	335.10		
illegal			
impounding vehicle	303.08		
use	335.11		
rear, illumination	337.04		
unobstructed	335.10		
LIGHT AND POWER DEPARTMENT			
(see also ELECTRICITY)			
established	913.01		
personnel	913.02		
powers and duties	913.03		
LIGHTS, VEHICLE (see VEHICLE LIGHTS)			
LIMITATION OF PROSECUTION	501.06		
LIQUOR (see INTOXICANTS)			
LITTERING			
generally	521.08		
parks, in	927.14		
motor vehicle, from	331.41		
LOCK BOX	1501.21		
LODGING TAX (see TRANSIENT LODGING TAX)			
LOITERING			
generally	509.11		
sexually orientated businesses,			
near	791.20		
solicitation, to engage in	533.091		
LONGEVITY COMPENSATION	145.07		
LOTS			
cleaning; draining	521.05		
subdivisions	1315.04		

M-1 LIGHT INDUSTRIAL DISTRICT

area	1343.08
established	1343.01
height	1343.07
performance standards	1343.05, 1343.06
purpose	1343.02
residential conversions	1343.10
uses	1343.03 et seq.

MANSLAUGHTER, VEHICULAR 537.02**MAYOR Chtr. III H****MECHANICAL AMUSEMENT DEVICES**

definition	731.01
distributor's license; fee	731.02
giving prizes prohibited	731.03

MENACING (see also THREATS)

aggravated	537.05
physical harm	537.06
stalking	537.051

MINOR (see also JUVENILE)

child stealing	537.19
curfew (see CURFEW)	
electric personal assistive mobility device use	371.12(b), (c)
endangering	537.07
interference with custody	537.21
intoxicant sales	529.02, 529.06
park violations; liability	927.15
poolroom prohibition	711.02
preschool children's vehicles	337.165
tobacco products; distributing to	537.16
unruliness, contributing to	537.18

MISDEMEANOR (see OFFENSE)**MOBILE HOME**

occupying moving	331.35
------------------	--------

MOTOR VEHICLE

certificate of title	335.08
control	331.34, 333.01, 333.08
criminal forfeiture of	335.05(c)
defined	301.20
driving (see DRIVING)	
entering or leaving moving vehicle	371.06
equipment (see VEHICLE EQUIPMENT)	
homicide by	537.02
immobilization order	335.05(c)
impounding (see IMPOUNDING)	
junk (see JUNK MOTOR VEHICLE)	
key removal	
driver	351.07
law enforcement officer	303.03
license plates (see LICENSE PLATES)	
license tax	183.01
liquor consumption in; open container	529.04
littering from	331.41
operation (see DRIVING)	
preschool children's vehicles	337.165
riding on outside	371.06
slow moving (see COMMERCIAL AND HEAVY VEHICLE)	
snowmobile (see SNOWMOBILE)	
trespass	545.06
unauthorized use	545.06
unsafe	337.01
vehicle defined	301.51
vehicular vandalism	541.10
wrongful entrustment of	335.05

MOTOR VEHICLE LICENSE TAX

levy, additional	183.02
------------------	--------

MOTORCYCLE

brakes	337.18
defined	301.19
handle bars	373.02
headlight required	337.03
helmets; safety glasses	373.02
license to operate	335.01(a)
muffler	337.20

PARKING (Cont.)

trucks at night in residential districts	351.13
zoning districts	1331.03
PARKS AND RECREATION	
advertising; signs	927.01
animals	927.03
camping	927.04
definitions	927.00
disorderly conduct	927.05
driving	927.22
drug abuse	927.02
firearms and weapons	927.07
fires	927.08
fireworks	927.06
fishing	927.09
gambling	927.10
hindering employees	927.11
hours of operation	927.12
hunting and trapping	927.13
intoxicants	927.02
liability	927.28
loitering	927.14
minors, liability for violations	927.15
noise	927.16
noxious material, sewage dumping	927.17
paintball guns	927.07
parking	927.22
refuse	927.19
reservations	927.20
rules and regulations	
enforcement	927.26
copies, posted	927.27
minors, violations by	927.15
penalty	927.26
smoking	927.29
soliciting, concessions	927.21
special events	927.27
tobacco products	927.29
toys, miniature powered	927.18
trespassing	927.23
vandalism	927.24
waters, use of	927.25
weapons	927.07

PD PLANNED DEVELOPMENT

DISTRICT	
development plan	1338.02 et seq.
fees	1338.06
procedures	1338.05
purpose	1338.01
requirements	1338.02, 1338.05
review procedures	1338.02
uses	1338.03
PEDDLERS (see SOLICITORS)	
PEDESTRIAN	
blind person	371.02
bridge or railroad crossing, on	371.10
control signal	313.05
crosswalk, right half	371.04
crosswalk, right of way	371.01
diagonal crossing of intersection	371.03
electric personal assistive mobility device	371.12(b)
freeway, on	303.06
hitchhiking	371.06
intoxicated on street	371.09
jaywalking	371.03
sidewalk, right of way	371.07
sidewalk use required	371.05
soliciting ride	371.06
subdivisions	1315.07
walking on street	371.05
PEEPING TOM	533.06
PENALTY	
bicycle violation	373.99
offense	501.99
Traffic Code	303.99
Zoning Ordinance	1323.99
PENSIONS	
pick-up	145.08
PERMIT	
alarm system	705.03
blasting	549.10
building (see BUILDING PERMIT)	
business activity on downtown sidewalks	795.02(c)(2) to (4)
commercial and heavy vehicle use	339.01, 339.02

PERMIT (Cont.)

conditional use (see CONDITIONAL USE PERMIT)	
demolition, historic landmark	1187.05
development	1191.04
downtown sidewalk	
cafes	795.01(c)(2) to (10)
electrical work	1141.04
excavations	903.01
Fire Prevention Code	1501.25
fireworks exhibition	1519.02
garage sales	785.02 et seq.
intoxicant sale or manufacture	529.05
moving a structure	1183.01
newsrack	781.02
outdoor dining	
facilities	795.03(c)(2) to (7)
parades; street assembly	311.02
peddler's	751.03
signs	1351.03
swimming pools	1189.02
taxicab driver's permit	771.09
temporary driver's instruction	335.03
transportation of radioactive	
material	343.02
tree planting	907.04, 907.05
water use	911.15, 911.19
PERS (see PENSIONS)	
PERSONNEL RELATIONS COMMITTEE	
(see EMPLOYEE GRIEVANCE PROCEDURE)	
PINBALL MACHINES (see MECHANICAL AMUSEMENT DEVICES)	
PITTSFIELD TOWNSHIP	
ANNEXATION	
AGREEMENT	1329.06
PLANNING COMMISSION	
Comprehensive Plan Update	1301.03
conditional use permit	1355.07
Design Review Subcommittee	1357.08
members; terms	1301.01
powers and duties	Chtr. XIX E., 1301.02
zoning amendments	1327.01

PLUMBER'S LICENSE

advertising	1127.15
application	
contents	1127.03
files	1127.12
apprentice registration	
expiration; renewal	1127.10
fee	1127.06
bond required	1127.08
corporation	1127.13
display	1127.14
examination	
certificate	1127.07
fees	1127.06
exceptions	1127.20
false use of name, etc.	1127.16
fees	
disposition	1127.19
examination	1127.06
journeyman	1127.09
master plumber	1127.08
payment	1127.07
renewal	1127.22
journeyman	
license	1127.09
work	1127.16
maintenance licenses	1127.20
master plumbers	
bond, expiration, renewal	1127.08
display	1127.14
minor repairs defined	1127.24
partnership	1127.13
permit	
property owner doing work	1127.23
repair	1127.20
reciprocity	1121.21
records	1127.18
renewal, failure	1127.11
repair permit	1127.20
required	1121.03, 1127.01
revocation; re-application	1127.05
sewer connection	1127.25
types	1127.02
unlicensed, hiring	1127.17

REFRIGERATOR			
abandoned	521.01		
RESERVOIRS			
fishing in	923.01		
RESIDENTIAL CODE OF OHIO FOR			
ONE, TWO AND THREE			
FAMILY DWELLINGS			
adoption	1101.01		
RESIDENTIAL DEVELOPMENT (see			
also PLANNED RESIDENTIAL			
DEVELOPMENT)			
fee schedule	1111.01		
RESIDENCE DISTRICT			
defined	301.31		
48-hour parking	351.19		
overnight parking restricted	351.15		
truck parking at night in	351.13		
RESISTING ARREST	525.09		
RESOURCE CONSERVATION AND			
RECOVERY COMMISSION			
creation; appointments	156.01		
duties; responsibilities	156.02		
RESOURCE RECOVERY			
COMMITTEE	925.15		
RESTRAINT, UNLAWFUL	537.08		
RETIREMENT			
pension pick-up	145.08		
RIGHT TURN ON RED	313.03(c)(2)		
RIOT			
failure to disperse	509.02		
prohibited	509.01		
ROAD SERVICE VEHICLE			
approaching	333.031		
defined	301.321		
ROOMING HOUSES			
area, ventilation	1353.07		
bedfast and feeble persons	1353.12		
change of ownership	1353.03		
conditional use	1355.10		
defined	1353.01		
egress	1353.08		
exit signs	1353.11		
fire extinguishers	1353.10		
fires (see FIRES)			
license			
fee; inspection	1353.04		
expiration	1353.03		
issuance	1353.05		
required; display	1353.02		
suspension	1353.05		
ROOMING HOUSES (Cont.)			
location restriction	1353.02		
maintenance	1353.09		
penalty	1353.99		
plumbing	1353.06		
safety, sanitation	1353.07		
SAFETY ZONE			
driving through	331.29		
SALES			
altering objects to appear to			
have value	545.13		
criminal simulation of objects	545.13		
outdoor merchandise	521.10, 1355.10		
vehicles	1355.10		
SCHOOL			
definitions	501.01(n) et seq.		
disorderly conduct	509.03(e)		
replica firearm on premises	549.10		
SCHOOL BUS (see BUS)			
SEAT BELTS			
probationary license			
requirements	335.031		
use required	337.27		
SEMITRAILER (see COMMERCIAL AND			
HEAVY VEHICLE)			
SEPTIC TANKS	915.12		
SEWER REVENUE FUND	915.03		
SEWERS (see also TERMINATION OF			
RESIDENTIAL SERVICES;			
WATER POLLUTION			
CONTROL DIVISION)			
appeals	915.32		
compliance reports and			
schedules	915.22, 915.23		
confidential information	915.24		
connections	915.08, 915.09,		
	915.11, 915.13		
definitions	915.02		
discharges	915.14 et seq.		
industrial user discharge permit	915.20		
inspecting and sampling	915.33		
judicial proceedings	915.34		
monitoring facilities	915.10		
penalty	915.99		
private systems	915.12		
rates and charges	915.04 et seq., 915.26		
records	915.25		
recovery of costs	915.35		
Sewer Revenue Fund	915.03		

SEWERS (Cont.)

subdivision improvements	1315.10
suspension and revocation of permits	915.30, 915.31
violations	915.27 et seq.
wastewater discharge permit conditions	915.21
wastewater treatment	915.07
Water Pollution Control Division	915.01

SEXUAL OFFENSES

definitions	533.01
importuning	533.05
imposition	533.04
indecenty in public	533.07
prostitution (see PROSTITUTION)	
unlawful sexual conduct with a minor	533.03
voyeurism	533.06

SEXUALLY ORIENTATED BUSINESSES

adult motels prohibited	791.17
appeals	791.15
business license required	791.04, 791.06, 791.07
classification	791.03
definitions	791.02
employee license required	791.06, 791.08, 791.09
fees	791.10
injunction	791.22
inspections	791.11
lighting, exterior	791.20
live entertainment	791.18
locational criteria	1359.01 et seq.
loitering	791.20
operation of	791.19
penalty	791.21
purpose	791.01
revocation of license	791.14
sexually explicit films	791.18
suspension of license	791.13
transfer of license	791.16
videos	791.18
zoning regulations	1359.01 et seq.

SHOPLIFTERS

detention and arrest	545.04
----------------------	--------

SHRUBBERY

trimming	551.01 et seq.
----------	----------------

SIDEWALK

bicycle riding in Business District	373.10
business activity on, downtown	795.02
defined	301.37
driving over	331.37
electric personal assistive mobility device on	371.12
merchandise display	521.10
obstructions; damage or injury	521.04
pedestrian right of way	371.07
repair and cleaning	521.06
repair or construction	905.01 et seq.
required use by pedestrians	371.05
vehicle to stop at	331.23

SIGNS

applicability	1351.02
college	1351.07
fees	1351.03, 1351.08
generally	1351.04
inspections	1351.03
parks, in	927.01
penalty	1351.99
permits	1351.03
purpose	1351.01
smoking; e-cigarettes	506.03
subdivisions	1315.08
zoning districts	1351.05, 1351.06

SIREN

prohibited on bicycles	373.05
vehicle	337.19

SITE PLAN REVIEW

administration and enforcement	1357.07
application	1357.04
approval	1357.03
commercial districts outside C-1 District	1357.10
Design Review Subcommittee	1357.08
fees	1357.09
improvements	1357.05
purpose	1357.01
required	1357.02
requirements	1357.04
review	1357.03
standards	1357.06
submittal	1357.03

SKATEBOARD			STREET (see also PRIVATE ROAD)	
attaching to bike	373.03		abandoned junk motor vehicle on	303.09
SLUG			animal on	303.05
defined	545.01(j)		bicycle riding	373.07
making or using	545.11		closed for repair, driving on	331.26
SMOKE DETECTOR	1501.23		defined	301.42
SMOKING (see also CLEAN INDOOR AIR)			divided, driving procedure	331.31
parks, in	927.29		dropping or throwing	
prohibited at Council meetings	111.02		objects onto	541.10
signs	506.03		electric personal assistive	
SNOW AND ICE			mobility device on	371.12
removal from sidewalk	521.06		expressway	
SNOWMOBILE			entering and leaving	331.32
definitions	375.01		freeway	
helmets; safety glasses	373.02		backing vehicle on	331.13
operation			entering and leaving	331.32
on City or school property	375.03		prohibited use	303.06
on streets	375.02		injurious material, placing on	311.01
SOLICITING			load, dropping on	339.08
parks, in	927.21		obstruction	311.01
prohibited on highway	371.06		one-way, driving on	331.30
SOLICITORS			parades; assembly on	311.02
definitions	751.01		parking prohibitions	351.03, 351.12
penalty	751.99		private	
posted signs; trespassing	751.07		speed limits	333.035
registration			stop signs on	331.235
certificate	751.03 et seq.		railroad obstructing	553.01, 553.011
exemptions	751.04		subdivisions	1315.06
fees	751.03		through	
required	751.02		right of way	331.18, 331.19
revocation	751.08		stop, yield signs	313.02
restrictions	751.06		toy vehicles	311.03
signs re registration, posting	751.09		Tree Planting Plan	907.14
SPEED			vacated; zoning classification	1329.04
bridge, limitations	333.05		STREET RACING	333.07
construction zone,			STREETS AND PARKS DIVISION	
vehicular assault in	537.021		administration	901.03
emergency, public safety vehicle	333.06		division established	901.01
maximum limits	333.03		personnel	901.02
slow, minimum	333.04		SUBDIVISION	
street racing	333.07		tree planting	907.17
STALKING			SUBDIVISION ORDINANCE	
menacing	537.051		agreements required	1317.01
trespass	541.051		applicability	1307.01
STOP SIGN (see TRAFFIC CONTROL DEVICE)				

SUBDIVISION ORDINANCE (Cont.)

authority	1307.04
citation	1307.03
construction	
agreement	1317.02
procedures	1311.05
definitions	Ch. 1309
design criteria	
commercial areas	1315.15
easements	1315.05
erosion and sediment control	1315.14
generally	1315.01
historic features	1315.16
industrial areas	1315.15
landscaping	1315.14
lots and blocks	1315.04
monuments	1315.03
natural features	1315.16
pedestrian ways	1315.07
public sites and reserves	1315.17
signs	1315.08
streets	1315.06
trees	1315.14
fees	1319.06
guarantees required	1317.01
hardship exceptions; hearing	1319.01
improvements	
acceptance of	1311.06
generally	1315.01
oversize; off-site	1315.13
plan standards	1315.02
utilities	1315.09 et seq.
interpretation	1307.05
jurisdiction	1307.01
liability insurance	1317.05
maintenance guarantee	1317.07
major subdivisions	1311.03, 1311.04
minor subdivisions	1311.02
performance guarantee	1317.03
planned unit development	
modifications	1319.02
plat adjustments	1319.04
plat requirements	
final plat	1313.04
generally	1307.06, 1313.01
minor subdivisions	1313.02
preliminary plat	1313.03

SUBDIVISION ORDINANCE (Cont.)

plat vacations	1319.05
pre-application conference	1311.01
purpose	1307.02
restoration bond	1317.04
severability	1319.03
title search	1317.06
violations; penalties	1319.99
SUNSCREENING MATERIALS	337.28
SUSPICIOUS PERSONS	509.11
SWIMMING	
parks, in	927.25
SWIMMING POOLS	
abatement of nuisance	1189.09
definitions	1189.01
electricity near	1189.06
fencing; safety devices	1189.05
inspection	1189.08
location	1189.04
permit	1189.02
plans	1189.03
water; plumbing	1189.06
SWITCHBLADE (see WEAPONS)	
TAMPERING	
library; museum; archival institution	545.04
TAXATION	
motor vehicle license	183.01
TAXICABS	
operation registrations	771.01
stands, parking in	351.10
TELECOMMUNICATIONS	
harassment	537.10
TELEPHONE	
harassment	537.10
party lines yielded in emergency	537.12
TEMPORARY PROTECTION ORDER	537.15
TERMINATION OF RESIDENTIAL SERVICES	
payment arrangements; responsibilities	919.04
procedures	919.02
reasons	919.01
reconnection	919.03
special considerations	919.05
THEFT	
child stealing	537.19
criminal tools, possession	545.19

THEFT (Cont.)		TRAFFIC CONTROL DEVICE (Cont.)	
definitions	545.01	hidden	313.07
determining property value	545.02	lane of traffic, direction	313.04
library; museum; archival		lights, description	313.03
institution	545.04	nonworking	313.09
petty	545.05	obedience required	313.01
property exceptions as felony	545.03	pedestrian control signal	313.05
receiving stolen property	545.18	portable signal preemption	
unauthorized property use	545.08	devices prohibited	313.11
unauthorized vehicle use	545.06	removal, injury	313.08
vehicle alarm signal	337.19	signal terms	313.03
THREATS (see also MENACING)		stop sign	
coercion	537.09	operation at	331.19
THROUGH STREET (see under STREET)		placing	313.02
TICKETS		right of way	331.19
citation tags	501.13	stop sign or signal	
TINTED GLASS	337.28	emergency vehicle	331.20
TIRES		public safety vehicle	331.20
peeling or squealing	331.36	stop signs on private roads and	
studded	339.11	driveways	331.235
TOBACCO PRODUCTS (see also CLEAN		through streets, signs at	313.02
INDOOR AIR)		unauthorized	313.07
illegal distribution to minor	537.16	yield signs	
parks, use in	927.29	operation at	331.18
TOW-AWAY ZONES		placing	313.02
private	303.082	TRAFFIC CONTROL FILE	
TOWING		amendments	305.03
requirements	339.07	established	305.02
TOY VEHICLES		TRAFFIC SIGNAL (see TRAFFIC	
miniature model toys in parks	927.18	CONTROL DEVICE)	
on streets	311.03	TRAILER	
TRAFFIC CODE		occupying moving	331.35
definitions	Ch. 301	TRAIN (see RAILROAD)	
electric personal assistive		TRANSIENT LODGING TAX	
mobility device	371.12(a)	definitions	185.02
government vehicles	303.07	established	185.01
misdemeanor classification	303.99(a)	exemptions	185.04
penalties	303.99(b)	imposition	185.03
road workers, equipment		payment by guest	185.06
excepted	303.04	records; reports	185.09, 185.10
TRAFFIC CONTROL DEVICE		registration	185.08
advertising on	313.07	remitting	185.10
alteration, removal	313.08	stated and charged	185.07
ambiguous	313.09	tax exempt status; false evidence	185.05
center line, painted	313.08		
defined	301.46		
flashing signal	313.06		

TRANSPORTATION OF RADIOACTIVE**MATERIAL**

definitions; purpose 343.01

notification 343.03

permit

issuance 343.04

required 343.02

TRAPPING ANIMALS 505.10**TREASURER**

appointment; duties Chtr. XVII

editor's note Ch.127

income tax duties 181.08

TREASURY INVESTMENT**BOARD** 127.01**TREE LAWN**

driving over 331.37

merchandise display 521.10

parking on 351.16

TREES

abuse or mutilation 907.08

bracing, cabling and guying

standards 907.07

charges for procedures and labor 907.20

construction, protection during 907.10

curblawn; height of lower limb 907.18

curblawn planting;

reimbursement 907.16

definitions 907.01

destruction 541.06

electrical devices near 907.12

Grounds Department; powers

and duties 987.02

guards or shield device, removal 907.13

interference with planting

or care 907.03

lien 907.21

penalty 907.99

permits

application 907.05

required 907.04

placing or storing material on

curb lawns 907.11

Planting Trust Fund 907.15

prohibited species 907.09

pruning standards for curblawns and

City property 907.06

Street Tree Planting Plan 907.14

TREES (Cont.)

subdivisions and Planned Residential

Developments 907.17, 1315.14

trimming

assessment of costs 551.04

City action 551.03

height over street 551.01

violation notice; appeals 907.19

TRESPASS

aggravated 541.051

amusement place, public 541.11

land or premises 541.05

parks and recreation areas 927.23

solicitors, signs prohibiting 751.07

vehicle 541.06

voyeurism 533.06

**TRUCK (see COMMERCIAL AND
HEAVY VEHICLE)****USE REGULATIONS**

conditional use permit (see

CONDITIONAL USE**PERMIT)**nonconforming (see **USES,****NONCONFORMING)**

zoning districts

CDD 1344.02

C-1 1341.02, 1341.03

C-2 1342.02, 1342.03

C-3 1340.02, 1340.03

M-1 1343.03 et seq.

O 1346.02, 1346.03

P-1 1339.02

PD Planned Development 1338.03

R-1 1335.02, 1335.06

R-1A 1331.02, 1331.06

R-1B 1333.02, 1333.06

R-2 1337.02, 1337.06

USES, NONCONFORMING

building 1347.02

land 1347.01

public; authorization 1347.03

UTILITIES

annexation required prior

to tap-in 909.04

City-owned, free to City 909.01

delinquent bills, assessment 909.02

energy efficiency/conservation 131.02

UTILITIES (Cont.)

installation in new areas; connections;	
cost recovery	909.03
renewable generation	131.02
repairs, mutual aid agreement	909.06
security deposit	909.05
subdivision improvements	1315.09
et seq.	

U TURN

regulated	331.12
-----------	--------

VANDALISM (see PROPERTY DESTRUCTION)

VARIANCES

flood hazard areas	1191.06
Housing Code	1173.04
zoning; Appeals Board	1325.04

VEHICLE (see MOTOR VEHICLE)

VEHICLE EQUIPMENT

air cleaner	337.25
brakes	337.18
bumper heights	337.29
bumpers required	337.01(d)
chains	339.10
child restraint system	337.26
directional signals required	337.31
exceptions	337.01(c)
exhaust noise	331.36
horn, siren	337.19
lights (see VEHICLE LIGHTS)	
loads (see VEHICLE LOADS)	
motorcycle, off-highway	375.02
motorized bicycle	373.16
mud flaps	339.05
muffler	337.20
rear red reflector	337.05
rear view mirror	337.21
red flag or light, on load	337.08
seat belts	337.27
slow-moving vehicle, emblem	337.10
spikes, lugs	339.10
sunscreening materials	337.28
theft alarm signal	337.19
tinted glass	337.28
tires (see TIRES)	
wheel protectors	339.05
windshield regulations	337.22

VEHICLE LIGHTS

auxiliary driving lights	337.11
back-up	337.12
bicycle	373.06
commercial vehicle, safety	
lighting	337.06
distance, height measurement	337.02
electric personal assistive	
mobility device	371.12
fender or cowl	337.12
flashing	
limitations	337.16
slow-moving vehicle	337.10(e)
headlights	
focus and aim	337.17
required	337.03
use of beams	337.14
lighted, required	337.02
motorized bicycle	373.16
number permitted	337.16
parked or stopped	337.09
slow-moving vehicle	
less intensity	337.15
requirements	337.10
spotlight	337.11
stop lights	337.24
tail light	337.04
two displayed	337.13
vehicles in combination,	
obscured	337.07

VEHICLE LOADS

extension on left side	337.23
information on request	339.04
leaking or dropping	339.08
obstructing driver's view	331.25
projecting, red flag or light	337.08
shifting or loose	339.09
truck loading zones	351.09
weighing; removal of excess	339.12

VEHICULAR HOMICIDE

537.02

VENDING MACHINE (see COIN MACHINE)

VENTILATION

heaters and burners	521.02
rooming houses	1353.07

VIOLENCE, INCITING

509.011

VOYEURISM

533.06

WARD BOUNDARIES

division established	105.01
Map	Ch. 105 Appx. A.
Ward 1	105.02
Ward 2	105.03
Ward 3	105.04
Ward 4	105.05
Ward 5	105.06

WATER (see also TERMINATION OF RESIDENTIAL SERVICES)

backflow prevention device	911.29
curb stop, turning on or off at	911.16
energy efficiency	131.02
fire hydrant (see FIRE HYDRANT)	
fluoridation	911.28
house boilers	911.17
inspection of premises	911.25
installation expenses	911.07
meters	
accessibility	911.27
charges based on	911.13
maintenance; minimum rate	911.12
tampering with	911.14
permit to use	
any use	911.15
use from public building	911.19
plumber's report	911.08
pollution	521.08, 1193.02
rates	911.11
repairing equipment	911.26
service pipes	911.05
subdivision improvements	1315.09
supply regulations	1501.20
suspending water supply	911.10
swimming pools	1189.06
tampering conduit lines	911.23
meter	911.14
stopcock or valve box	911.20
tapping fees	911.06
valve box	
obstructing	911.21
tampering	911.20
water closets	911.09
water mains	911.04

WATERCOURSE

obstruction removal	521.05
parks, in	
noxious material in	927.17
use of	927.25
solid waste corrupting	521.08

WATER DIVISION

administration	911.03
established	911.01
personnel	911.02

WATER POLLUTION CONTROL

DIVISION (see also SEWERS)	915.01
----------------------------	--------

WEAPONS

definitions	549.01
discharging	549.08
missiles, throwing or shooting	549.09
parks, in	927.07

WEEDS

notice to cut or destroy	
assessment of costs	551.04
City action	551.03
compliance time; height	551.02

WESTWOOD CEMETERY

burial of indigents	921.12
burial regulations	921.10
charges	
concrete foundations	921.07
grave opening	921.03
grave space	921.11
lots	921.01
resale of lots	921.02
retaining vault	921.06
funerals; evenings, weekends and holidays	921.04
hours	921.05
maintenance	921.09
moving of body	921.08

WHEELCHAIR (see also ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE)

motorized	
defined	301.52
operator's rights	371.11

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>	<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
00-116AC	1-2-01	1501.19	05-82-AC	7-5-06	1344.01 to 1344.07
00-117AC	1-2-01	1501.20	06-12AC	3-6-06	1501.01, 1501.02
01-01AC	2-5-01	1341.04	06-38AC	5-15-06	911.07
01-16AC	2-5-01	125.01	06-49AC	6-19-06	181.01 to 181.18; Rescinds Chap. 182
01-49AC	5-21-01	925.10	06-50AC	6-5-06	373.03
01-67AC	7-2-01	141.12	06-55AC	6-19-06	339.08
01-75AC	9-17-01	Ch. 181 Ed. Note	06-69AC	9-18-06	1340.01 to 1340.05
01-80AC	9-4-01	1191.01 to 1191.99	06-70AC	9-18-06	1321.641, 3446.01 to 1346.05
01-82AC	10-15-01	905.01	06-72AC	9-18-06	1329.03, 1329.06
01-86AC	11-5-01	1347.01	06-84AC	10-2-06	1501.20(a), (d)(7)
02-37AC	4-15-02	1501.01 to 1501.99	07-02AC	1-16-07	1357.02(a), 1357.03(b)(1)A.
02-42AC	4-15-02	141.12	07-03AC	1-16-07	1351.06
02-54AC	5-20-02	925.10	07-08AC	1-16-07	129.05
02-66AC	11-5-02	181.03, 181.13	07-09AC	1-2-07	Rescinds 153.02
02-67AC	7-1-02	1325.01 to 1325.06	07-14AC	1-16-07	145.07
02-91AC	9-3-02	130.01, 145.08, 145.12	07-17AC	1-16-07	141.01 to 141.08
02-113AC	12-2-02	1501.01(c)	07-19AC	1-16-07	111.04
02-117AC	12-2-02	145.07	07-29AC	5-7-07	1359.01 to 1359.06
03-13AC	1-21-03	145.09	07-30AC	5-7-07	791.01 to 791.23
03-28AC	4-21-03	1501.01, 1501.02	07-44AC	5-7-07	909.07
03-70AC	10-6-03	913.04	07-81AC	10-2-07	107.01 to 107.05
03-74AC	10-6-03	111.04, 121.04, 129.05, 145.01 to 145.09	08-19AC	3-17-08	143.01
03-85AC	11-3-03	1357.08	08-20AC	4-21-08	157.10
03-86AC	11-3-03	Repeals 160.01, 160.02	08-25AC	4-21-08	1353.01, 1354.01 to 1354.03
03-96AC	12-15-03	915.04	08-26AC	4-21-08	1501.01, 1501.02
03-99AC	12-1-03	1501.06	08-29AC	5-19-08	161.01
04-18AC	4-5-04	1343.04	08-30AC	6-2-08	145.02, 145.03, 145.04
04-48AC	4-5-04	181.021, 181.03	08-36AC	6-16-08	181.03, 181.13
04-68AC	10-18-04	903.03	08-39AC	8-25-08	911.04, 911.18
04-72AC	11-15-04	1357.10	08-42AC	7-7-08	1191.03
04-76AC	1-3-05	1301.03	08-70AC	11-3-08	1111.01
05-01AC	2-7-05	373.11, 373.99, repeals 373.12 to 373.15	08-80AC	11-3-08	1501.27
05-08AC	2-22-05	143.06	08-85AC	12-15-08	1101.01
05-11AC	3-7-05	1101.01, 1101.02	08-86AC	1-20-09	131.02
05-12AC	3-7-05	1151.01, 1151.02	08-87AC	1-20-09	156.01, 156.02, 925.15
05-22AC	5-2-05	1501.06, 1501.99	08-88AC	1-20-09	155.02
05-66AC	9-19-05	1501.01, 1501.02	09-02AC	1-5-09	1501.25
05-67AC	10-17-05	1501.25	09-21AC	3-16-09	128.03
05-81AC	12-5-05	112.01 to 112.99	09-22AC	3-16-09	181.02(a), (b)
			09-23AC	3-16-09	121.05

COMPARATIVE SECTION TABLE

44

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>	<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
09-42AC	6-1-09	1501.01, 1501.02	11-70AC	10-17-11	927.00
09-43AC	6-1-09	1501.25	11-75AC	12-5-11	Ch. 135 Ed. Note
09-46AC	6-15-09	925.09(d), (e), 925.10, 925.14	11-76AC	11-21-11	1357.03, 1357.08
09-64AC	9-21-09	143.04	12-14AC	3-5-12	1501.01
09-80AC	10-19-09	181.10(c)	12-15AC	3-5-12	1505.01 to 1505.05, 1505.99
09-97AC	12-21-09	145.05(b)	12-35AC	5-21-12	157.01, 157.10, 1185.01, 1185.02
10-03AC	2-16-10	1331.02, 1331.05, 1333.02, 1333.05, 1335.02, 1335.05	12-46AC	5-21-12	Repeals Ch. 158
10-24AC	5-3-10	927.00	12-52AC	6-18-12	1501.05
10-25AC	5-3-10	927.29	12-68AC	10-15-12	1351.01 to 1351.09, 1351.99
10-36AC	6-21-10	351.99	13-03AC	1-22-13	111.04
10-71AC	2-22-11	795.01 to 795.03	13-15AC	3-18-13	129.04, 129.05
11-07AC	2-22-11	1111.01, 1111.06, 1323.08	13-23AC	4-1-13	145.07
11-13AC	4-4-11	1151.01, 1151.02	13-27AC	5-6-13	925.01 to 925.17, 925.99
11-14AC	4-4-11	551.02	13-31AC	5-6-13	181.03, 181.13(d)
11-22AC	4-18-11	Ch. 140 title, 140.01, 140.02, 151.04, 157.02 to 157.06, 157.08, 303.10, 339.08, 521.12, 785.03, 785.05, 785.07, 791.11, 905.01, 905.02, 1115.03, 1115.05 to 1115.07, 1151.01, 1173.02, 1173.03, 1173.06, 1187.03, 1187.04, 1187.07 to 1187.09, 1191.04 to 1191.06, 1191.09, 1321.23, 1325.04, 1338.02, 1343.03, 1343.05, 1343.06, 1349.02, 1353.02, 1353.03, 1353.05, 1355.08, 1357.02, 1357.03	13-43AC	8-19-13	331.12
			13-44AC	9-16-13	927.07
			13-66AC	11-19-13	Repeals 549.02 to 549.07, 549.10, 549.12 181.03, 181.13
			14-02AC	1-21-14	1501.25
			14-07AC	4-7-14	909.02
			14-14AC	4-7-14	925.10
			14-16AC	4-21-14	1111.01
			14-19AC	6-16-14	506.01 to 506.06, 506.99
			14-20AC	6-2-14	927.29
			14-22AC	7-7-14	
11-25AC	5-2-11	1115.08			
11-33AC	5-16-11	551.04			
11-39AC	6-20-11	927.00			
11-45AC	7-5-11	121.03			
11-53AC	7-5-11	927.12, 927.23			
11-56AC	9-19-11	1357.03, 1357.08			
11-58AC	9-6-11	1151.02			
11-64AC	9-6-11	1501.01, 1501.02			

TITLE THREE - Legislative

Chap. 111. Council.

Chap. 112. Election Financing.

Chap. 113. Ordinances and Resolutions.

CHAPTER 111 Council

111.01	Council rules adopted.	111.03	Compensation schedule.
111.02	Smoking at public meeting prohibited.	111.04	General pay provisions.

CROSS REFERENCES

Composition, terms and qualifications - see CHTR. Sec. III, A, B
 Removal from office; vacancies - see CHTR. Sec. III, C, D
 Salaries - see CHTR. Sec. III, E; ADM. 145.09
 Meeting times; open to public - see CHTR. Sec. III, F
 President and Vice-President - see CHTR. Sec. III, G
 President as acting City Manager - see CHTR. Sec. V
 Power to remove City Manager - see CHTR. Sec. VI
 Powers as to creation or change of departments, offices, boards, etc. - see CHTR. Sec. VII
 Interference with appointments or removals made by City Manager prohibited - see CHTR. Sec. VIII
 Legislative procedure; rules and journal - see CHTR. Sec. IX
 Power to provide independent audit - see CHTR. Sec. XI
 Special meetings - see CHTR. Sec. XII
 Quorum - see CHTR. Sec. XIII
 Clerk - see CHTR. Sec. XV
 To appoint members to all boards and commissions - see CHTR. Sec. XIX, A
 Hospital - see CHTR. Sec. XX
 Amendment of Charter - see CHTR. Sec. XXI
 Power to grant franchises - see CHTR. Sec. XXIII
 Initiative, referendum and recall - see CHTR. Secs. XXIV, XXV
 Notification of meetings - see Ohio R.C. 121.22
 Release of Treasurer's liability for loss of funds - see Ohio R.C. 131.18 et seq.
 To establish sewerage rates - see Ohio R.C. 729.49
 President's power to declare state of emergency - see GEN. OFF. 509.09

111.01 COUNCIL RULES ADOPTED.

(a) Robert's Rules of Order, 75th Anniversary Edition, revised and copyrighted in 1951, are hereby adopted by Council for its rules of procedure, and the Law Director is named parliamentarian. (Motion 1-20-64)

(b) In case of conflict between Robert's Rules of Order and the City Charter or State law, the provisions of the City Charter or State law shall prevail.
(Motion 2-17-64)

111.02 SMOKING AT PUBLIC MEETING PROHIBITED.

(a) No person shall smoke any tobacco material at any public meeting of Council.

(b) Whoever violates this section is guilty of a minor misdemeanor and shall be fined as provided in Section 501.99. (Ord. 1110 AC CMS. Passed 5-20-75.)

111.03 COMPENSATION SCHEDULE.

Pursuant to Section III, E. of the City Charter, the salary of the members of Oberlin City Council shall be paid in substantially equal installments due and payable with the first Municipal payroll of each month.
(Ord. 95-11AC CMS. Passed 1-17-95.)

111.04 GENERAL PAY PROVISIONS.

(a) Effective January 1, 2014 the salary of the President of Council shall be eight thousand four hundred dollars (\$8,400.00) per year, and the salary of the Vice President of Council shall be seven thousand eight hundred dollars (\$7,800) per year.

(b) Effective January 1, 2014 the salary of all of the other members of Council shall be seven thousand two hundred dollars (\$7,200) per year.
(Ord. 13-03 AC CMS. Passed 1-22-13.)

CHAPTER 129
Law Director

129.01	Power to sign City checks for Treasurer.	129.03	Assistant Law Director and Prosecutor.
129.02	Power to sign City checks for Finance Director.	129.04	Collection of delinquent City income taxes.
		129.05	Additional compensation.

CROSS REFERENCES

Appointment, powers and duties - see CHTR. Sec. XVIII
Parliamentarian of Council - see ADM. 111.01
Public Defender - see ADM. 171.01

129.01 POWER TO SIGN CITY CHECKS FOR TREASURER.

The Law Director is hereby authorized and empowered to sign City checks in place of the City Treasurer at all times in the absence of or incapacity of the City Treasurer.
(Ord. 1 AC CMS. Passed 4-5-57.)

129.02 POWER TO SIGN CITY CHECKS FOR FINANCE DIRECTOR.

The Law Director is hereby authorized and empowered to sign City checks in place of the Finance Director at all times in the absence of or incapacity of the Finance Director.
(Ord. 171 AC CMS. Passed 9-5-60.)

129.03 ASSISTANT LAW DIRECTOR AND PROSECUTOR.

The position of Assistant Law Director and Prosecutor is hereby created and shall be filled commencing January 1, 1970, by appointment of the Law Director. The appointment by the Law Director is to be for an indefinite term and the appointee shall serve at the pleasure of the Law Director.
(Ord. 669 AC CMS. Passed 12-22-69.)

129.04 COLLECTION OF DELINQUENT CITY INCOME TAXES.

The Law Director is hereby authorized and directed to provide legal representation for the City, including the office of the Finance Director, to file court action and otherwise proceed to collect delinquent City income taxes, to be charged as extraordinary legal services, unless the services are available through the Regional Income Tax Agency.
(Ord. 13-15 AC CMS. Passed 3-18-13.)

129.05 ADDITIONAL COMPENSATION.

The Law Director shall receive additional compensation at such rate as has been set by City Council for the following matters:

- (a) Equal Employment Opportunity Commission and/or Ohio Civil Rights Commission Complaints/Charges;
- (b) Any foreclosure actions naming the City as a party;
- (c) Any other litigation wherein the City is named as a party;
- (d) Income Tax collections. Subject to Section 129.04;
- (e) Utility collections;
- (f) Appeals to the Zoning Board of Appeals, Planning Commission, Housing Renewal Commission, Civil Service Commission, State Board of Building Standards (OBBS), State of Ohio Board of Building Appeals (OBBA);
- (g) Administrative Appeals of any sort, whether to Oberlin City Council or the Courts;
- (h) U.S. or Ohio EPA charges or violations naming the City of Oberlin;
- (i) Community Housing Improvements Program (CHIP) matters;
- (j) Any other matters wherein additional compensation is authorized by City Council motion. (Ord. 13-15 AC CMS. Passed 3-18-13.)

a department head and are determined to be permanent, the respective appointing authority shall present the changes to the City Council for its concurrence by motion.

- (4) New job descriptions and significant changes to current job descriptions involving civil service positions shall be presented to the Civil Service Commission for determination as to whether the position is in the classified civil service or not, and if it is determined to be a classified position, whether it should be designated competitive or non-competitive.
- (5) The respective appointing authority shall periodically review the pay grades of positions and, upon the basis of that review, the appointing authority may combine or abolish positions. New positions, established by the respective appointing authority, shall be placed within the Classification Plan, upon Council approval. Job descriptions of new department head positions shall be subject to specific approval by the City Council by motion. Amendments to the Classification Plan which affect civil service positions shall first be submitted to the Civil Service Commission as noted in subsection (a)(4) hereof.

(b) An employee may at any time submit a written request through his/her department head to the respective appointing authority for a review of the allocation of his/her position, setting forth the reasons for justifying the review. Typically, such a review will only be undertaken after significant changes in duties or responsibilities have taken place (see subsection (a)(3) hereof). The respective appointing authority shall review the position to determine its correct allocation in the Classification Plan and that the job description is accurate. The decision of the respective appointing authority shall be in writing and shall be reported to the employee, and shall be final.

(c) The City's personnel resource shall be available to advise the City's appointing authorities in accomplishing the responsibilities set forth in this chapter.
(Ord. 08-30AC CMS. Passed 6-2-08.)

145.05 PAY PERIODS.

(a) All employees of the City, except as otherwise required by the Ohio Revised Code, shall receive their respective authorized compensation every two weeks, twenty-six or twenty-seven times per year, and the Auditor and the Treasurer shall take all necessary action to ensure such payment.

(b) For the purpose of calculating the wage amount for each two-week period, annual authorized compensation shall be divided by the following in order to establish an hourly rate:

- (1) 2,080 hours for forty-hour weekly employees;
- (2) 1,950 hours for thirty-seven-and-a-half-hour weekly employees;
- (3) 1,820 hours for thirty-five-hour weekly employees;
- (4) 2,912 hours for fifty-six-hour weekly employees.
- (5) All part-time salary employees, and any other employees that currently, or may at some point, work hours not specifically noted in subsections (b)(1) through (4) above shall be treated in a consistent manner in order not to reduce their bi-weekly pay in a year with twenty-seven bi-weekly pay periods.

The regular two-week wage amount shall then consist of, respectively, eighty, seventy-five, seventy, or one hundred twelve hours multiplied by the respective hourly rate.

(c) In years containing twenty-seven pay periods, payment made pursuant to the method of computation set forth in subsection (b) hereof shall not be deemed to be in excess of the authorized annual compensation. (Ord. 09-97AC CMS. Passed 12-21-09.)

145.06 GENERAL PAY PROVISIONS.

Remuneration for personal services shall be prorated by the Treasurer, with the approval of the Finance Director, and in accordance with the appropriations ordinance, to the appropriate funds in an amount indicative of the relationship of work to the fund.
(Ord. 03-74 AC CMS. Passed 10-6-03.)

145.07 LONGEVITY COMPENSATION.

(a) Each full-time employee of the City shall be entitled to a longevity bonus in the following amounts for service with the City:

<u>Years of Service</u>	<u>Amount of Bonus</u>
5 to 10 years	\$500.00
11 to 15 years	\$600.00
16 to 20 years	\$800.00
21 to 25 years	\$900.00
26 or more years	\$1,100.00

(b) The longevity bonus will accrue each year on the anniversary of the employee's date of hire and be paid on June 30 for a date of hire between January 1 and June 30, and December 31 for a date of hire between July 1 and December 31, effective January 1, 2007.
(Ord. 13-23AC CMS. Passed 4-1-13.)

145.08 PENSION PICK-UP.

(a) Effective with the payroll beginning on October 1, 1994, the full amount of the statutorily required contributions to the Public Employees Retirement System of Ohio (PERS) and the Police and Fire Pension shall be withheld from the gross pay of each person within any of the classes established in subsection (b) hereof and shall be "picked up" (assumed and paid to the PERS) by the City. This pick-up by the City is, and shall be designated as, public employee contributions and shall be in lieu of contributions to the PERS and the Police and Fire Pension by each person within any of the classes established in subsection (b) hereof. No person subject to the "pick-up" shall have the option of choosing to receive the statutorily required contribution to the PERS and the Police and Fire Pension directly instead of having it "picked-up" by the City, or of being excluded from the "pick-up". The City shall, in reporting and making remittance to the PERS and the Police and Fire Pension, report that the public employee's contribution for each person subject to this "pick-up" has been made as provided by statute.

(b) The "pick-up" by the City provided by this section shall apply to all persons who fall into the following classifications:

Employees of the City who are members of the Ohio Patrolman's Benevolent Association.

Employees of the City who are hourly and are not unionized, except full-time firefighter/drivers.

Employees of the City who are in administrative positions paid by annual salary, except the Fire Chief and Assistant Fire Chief .

Employees of the City who are members of IBEW Local 39 (International Brotherhood of Electrical Workers)

(c) The City's method of payment of salary to employees who are participants in PERS and the Police and Fire Pension is hereby modified as follows, in order to provide for a salary reduction "pick-up" of an employee's contribution to PERS and the Police and Fire Pension.

- (g) On the net profits earned during the effective period of this chapter, of all corporations derived from work done or services performed or rendered and business or other activities conducted in the City of Oberlin, whether or not such corporations have an office or place of business in the City of Oberlin.
- (h) Business Allocation Percentage Formula (Ohio R.C. 718.02).
 - (1) Net profits from a business or profession conducted both within and without the boundaries of the City of Oberlin shall be considered as having a taxable situs in the City of Oberlin for the purpose of income taxation in the same proportion as the average ratio of:
 - A. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City of Oberlin during the taxable period to the average original cost of all of the real tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used in this subsection, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
 - B. Wages, salaries and other compensation paid during the taxable period to persons employed in business or profession for services performed in the City of Oberlin to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed. Wages, salaries, and other compensation shall be included to the extent that they represent qualifying wages.
 - C. Gross receipts of the business or profession from sales made and services performed during the taxable period in the City of Oberlin to gross receipts from sales and services, wherever made or performed.

In the event that the allocation formula in 181.02(h)(1) does not produce an equitable result another basis may, under uniform regulations, be substituted so as to produce such result.
 - (2) As used in subsection (h)(1), "sale made in the City of Oberlin" means:
 - A. All sales of tangible personal property which is delivered within the City of Oberlin regardless of where title passes if shipped or delivered from a stock of goods within such City;
 - B. All sales of tangible property which is delivered within the City of Oberlin regardless of where title passes even though transported from a point outside such City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Oberlin and the sales result from such solicitation or promotion;
 - C. All sales of tangible personal property which is shipped from a place within the City of Oberlin to purchasers outside such City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(i) Consolidated Returns.

- (1) Any affiliated group which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the City of Oberlin. However, once the affiliated group has elected to file a consolidated return or a separate return with the City of Oberlin, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the City of Oberlin.
- (2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, the Finance Director shall require such information, in addition to the return hereinafter provided for, as he/she may deem necessary to ascertain whether net profits are properly allocated to the City of Oberlin. If the Commissioner finds net profits are not properly allocated to the City of Oberlin by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, he/she may require the filing of a consolidated return or adjust such transactions so as to produce a fair and proper allocation of net profits to the City of Oberlin.
(Ord. 06-49 AC CMS. Passed 6-19-06.)

181.03 EFFECTIVE PERIOD.

Said taxes shall be levied, collected and paid with respect to the income, qualifying wages, commissions and other compensation, and with respect to the net profits of persons, businesses, professions or other activities earned from January 1, 1999, at the rate of one and one-half percent (1-1/2%) per annum to and including the date of revocation of Ordinance No. 507 AC CMS; one-fifth of one percent (1/5%) additional tax from January 1, 2009 to December 31, 2018; one-fifth of one percent (1/5%) additional tax from January 1, 2015 to December 31, 2019; three-fifths of one percent (3/5%) additional tax from January 1, 2015 to December 31, 2024.
(Ord. 06-49 AC CMS. Passed 6-19-06; Ord. 08-36 AC CMS. Passed 6-16-08; Ord. 09-03 AC CMS. Passed 1-20-09; Ord. 13-31 AC CMS. Passed 5-6-13; Ord. 14-02 AC CMS. Passed 1-21-14.)

181.04 RETURN AND PAYMENT OF TAX.

- (a) (1) Whether or not a tax is due, Each taxpayer whose earnings or profits are subject to the tax imposed by this chapter, shall, on or before April 15, 1968, and on April 30 thereafter for years prior to taxable year 2004, and on or before April 15th for taxable years 2004 and later, make and file a final return with the Finance Director on a form obtainable from the Finance Director, or on a generic form as defined in this chapter, setting forth the aggregate amount of income, salary, wages, or other compensation and net profits earned by him/her during the preceding year or period and subject to said tax, together with other pertinent information as the Finance Director may require. However, retirees having no income considered taxable for Oberlin income tax purposes may file, with the Finance Director, a written request for exemption from these filing requirements, and shall be exempt if the request is granted by the Finance Director. Such exemption shall be in effect until such time as the retiree receives income taxable for Oberlin income tax purposes, at which time the retiree shall be required to comply with all applicable provisions of this chapter.

- (b) A sum equal to the amount of taxes collected per year from the additional one-half percent ($\frac{1}{2}\%$) in effect from January 1, 2004, shall be used for capital improvements and operating expenses.
(Ord. 06-49AC CMS. Passed 6-19-06.)
- (c) A sum equal to the amount of taxes collected per year from the additional one-fifth of one percent ($\frac{1}{5}\%$) in effect from January 1, 2009 through December 31, 2018 shall be used for capital improvements and general operating expenses, including debt service on obligations issued to finance such activities.
(Ord. 08-36AC CMS. Passed 6-16-08.)
- (d) A sum equal to the amount of taxes collected per year from the additional one-fifth of one percent ($\frac{1}{5}\%$) in effect from January 1, 2015 through December 31, 2019, shall be used for the purpose of providing funds for operating and capital improvement expenses for the City of Oberlin.
(Ord. 09-03AC CMS. Passed 1-20-09; Ord. 13-31AC CMS. Passed 5-6-13.)
- (e) A sum equal to the amount of taxes collected per year from the additional three-fifths of one percent ($\frac{3}{5}\%$) in effect from January 1, 2015 through December 31, 2024, shall be used for the purpose of providing funds for operating and capital improvement expenses for the City of Oberlin.
(Ord. 14-02AC CMS. Passed 1-21-14.)
- (f) The balance of such tax receipts collected shall be allocated to the General Fund of the City. (Ord. 06-49AC CMS. Passed 6-19-06.)

181.14 BOARD OF REVIEW.

(a) A Board of Review, consisting of five electors of the City of Oberlin, to be appointed in the same manner as other City committees, is hereby created. No member shall be appointed to the Board of Review who holds other public office or appointment. The members of the Board of Review shall serve without pay.

(b) A majority of the members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions.

(c) All hearings of the Board of Review shall be conducted privately and the provisions of Section 181.09 hereof with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board of Review on appeal.

(d) Any person dissatisfied with any ruling or decision of the Finance Director which is made under the authority conferred by this chapter and who has filed the required returns or other documents pertaining to the contested issue may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Finance Director. The request shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board of Review shall, on hearing, have jurisdiction to affirm, or reverse, or modify such ruling or decision, or any part thereof. The Board must schedule a hearing within forty-five (45) calendar days of receiving the appeal. The Board must issue a written decision within ninety (90) days after the final hearing and send a notice of its decision by ordinary mail to the taxpayer within 15 days after issuing the decision.

(e) Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty calendar days from the announcement of such ruling or decision. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Review may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.

(f) The Board of Review, as hereinbefore created, shall serve for a period of three years and thereafter successors for a like period shall be appointed in the same manner as the original appointment. (Ord. 06-49AC CMS. Passed 6-19-06.)

181.15 SAVINGS CLAUSE.

This chapter shall not apply to any person, firm, corporation, or to any other property as to whom or which it is beyond the power of Council to impose the tax herein provided for. If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall effect only such sentence, clause, section or part of this chapter and shall not affect or impair the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

(Ord. 06-49AC CMS. Passed 6-19-06.)

181.16 EXEMPTIONS.

The purpose of this chapter shall not be construed as levying a tax upon the following:

- (a) The Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the National Guard.
- (b) Poor relief, pensions, social security, unemployment compensation (but not including supplemental unemployment compensation), and disability benefits from private industry or local, state or federal governments, or from charitable, religious or educational organizations.
- (c) Dues, contributions and similar payments received by charitable, religious, or educational or literary organizations or labor unions, lodges and similar organizations.
- (d) Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations.
- (e) The income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities and only to the extent that the said income is exempt from federal income tax.
- (f) Gains from involuntary conversions, cancellation of indebtedness, items of income already taxed by the State of Ohio from which the City is specifically prohibited from taxing and income of a decedent's estate during the period of administration (except such income from the operation of a business).
- (g) Earnings and income of all persons under 18 years of age, whether residents or nonresidents.
- (h) Compensation for personal injuries or for damages to property by way of insurance or otherwise, but this exception does not apply to compensation paid for lost salaries or wages or to compensation from punitive damages.
- (i) Compensation paid to a precinct election official, to the extent that such compensation does not exceed \$1,000 annually.

CODIFIED ORDINANCES OF OBERLIN

PART THREE - TRAFFIC CODE

TITLE ONE - Administration

Chap. 301. Definitions.

Chap. 303. Enforcement, Impounding and Penalty.

Chap. 305. Traffic Control Map and File.

CHAPTER 301 Definitions

301.01	Meaning of words and phrases.	301.26	Private road or driveway.
301.02	Agricultural tractor.	301.27	Public safety vehicle.
301.03	Alley.	301.28	Railroad.
301.031	Beacon; hybrid beacon.	301.29	Railroad sign or signal.
301.04	Bicycle; motorized bicycle.	301.30	Railroad train.
301.05	Bus.	301.31	Residence district.
301.06	Business district.	301.32	Right of way.
301.07	Commercial tractor.	301.321	Road service vehicle.
301.08	Controlled-access highway.	301.33	Roadway.
301.09	Crosswalk.	301.34	Safety zone.
301.10	Driver or operator.	301.35	School bus.
301.11	Emergency vehicle.	301.36	Semitrailer.
301.12	Explosives.	301.361	Shared-use path.
301.13	Expressway.	301.37	Sidewalk.
301.14	Flammable liquid.	301.38	State route.
301.15	Freeway.	301.39	Stop (when required).
301.16	Gross weight.	301.40	Stopping or standing.
301.161	Highway traffic signal.	301.41	Stop intersection.
301.17	Intersection.	301.42	Street or highway; arterial street.
301.18	Laned street or highway.	301.43	Through street or highway.
301.181	Median.	301.44	Thruway.
301.19	Motorcycle.	301.45	Traffic.
301.20	Motor vehicle.	301.46	Traffic control device.
301.201	Operate.	301.47	Traffic control signal.
301.21	Park or parking.	301.48	Trailer.
301.22	Pedestrian.	301.49	Truck.
301.23	Person.	301.50	Urban district.
301.24	Pole trailer.	301.51	Vehicle.
301.25	Police officer.	301.52	Wheelchair, motorized.
301.251	Predicate motor vehicle or traffic offense.		

CROSS REFERENCES

See sectional histories for similar State law
Funeral procession defined - see TRAF. 331.24
Street racing defined - see TRAF. 333.07
Studded tire defined - see TRAF. 339.11
Blind person defined - see TRAF. 371.02
Snowmobile, off-highway motorcycle and all purpose vehicle
defined - see TRAF. 375.01
School zones defined - see TRAF. 333.03(b)

301.01 MEANING OF WORDS AND PHRASES.

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

301.02 AGRICULTURAL TRACTOR.

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

301.03 ALLEY.

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

301.031 BEACON; HYBRID BEACON.

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

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

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

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 the driver of a vehicle that 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, "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 4511.04)

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

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

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

303.05 APPLICATION TO PERSONS RIDING, DRIVING ANIMALS UPON ROADWAY.

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

303.06 FREEWAY USE PROHIBITED BY PEDESTRIANS, BICYCLES AND ANIMALS.

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

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

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

303.07 APPLICATION TO DRIVERS OF GOVERNMENT VEHICLES.

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

303.08 IMPOUNDING OF VEHICLES; REDEMPTION.

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

- (1) When any vehicle is left unattended upon any street, bridge or causeway and is so illegally parked so as to constitute a hazard or obstruction to the normal movement of traffic, or so as to unreasonably interfere with street cleaning or snow removal operations.

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.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.34)

331.10 TURNING AT INTERSECTIONS.

(a) The driver of a vehicle intending to turn at an intersection shall be governed by the following rules:

- (1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
- (2) At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
- (3) At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane of the roadway being entered lawfully available to the traffic moving in that lane.
- (4) Markers, buttons or signs may be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such markers, buttons or signs are so placed, no operator of a vehicle shall turn such vehicle at an intersection other than as directed and required by such markers, buttons or signs.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.36)

331.11 TURNING INTO PRIVATE DRIVEWAY, ALLEY OR BUILDING.

(a) The driver of a vehicle intending to turn into a private road or driveway, alley or building from a public street or highway shall be governed by the following rules:

- (1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
- (2) Upon a roadway where traffic is proceeding in opposite directions, approach for a left turn and a left turn shall be made from that portion of the right half of the roadway nearest the center line thereof.
- (3) Upon a roadway where traffic is restricted to one direction, approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway.

It shall be the duty of the driver of any vehicle entering a private road or driveway, alley or building to yield the right of way to pedestrians lawfully using the sidewalk or sidewalk area extending across any alleyway, private road, driveway or building.

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

331.12 "U" TURNS RESTRICTED.

(a) Except as provided in Section 313.03 and subsection (b) hereof, no vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, if the vehicle cannot be seen within 500 feet by the driver of any other vehicle approaching from either direction.

(b) The driver of an emergency vehicle or public safety vehicle, when responding to an emergency call, may turn the vehicle so as to proceed in the opposite direction. This subsection applies only when the emergency vehicle or public safety vehicle is responding to an emergency call, is equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle, and when the driver of the vehicle is giving an audible signal by siren, exhaust whistle or bell. This subsection does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(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. Nor shall any vehicle be turned to cross the on-coming lane of traffic to park in a diagonal parking space. No vehicle shall be turned so as to proceed in the opposite direction 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. (Ord. 13-43AC CMS. Passed 8-19-13.)

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.

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.

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 class five license 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. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13.
- B. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within six 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 class four license 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. (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 six 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 class three license 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)(3) 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. (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 six 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.

- (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.
- (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;

1. The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of 300 feet on each approach direction;
2. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of 300 feet on each approach direction;
3. The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of 300 feet on each approach direction of highway;

Nothing in this section shall be construed to invalidate the Director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in subsections (b)(1)A. and C. hereof.

D. As used in this subsection, "crosswalk" has the meaning given that term in Section 301.09. The Director may, upon request by resolution of Council, and upon submission by the Municipality of such engineering, traffic and other information as the Director considers necessary, designate a school zone on any portion of a State route lying within the Municipality that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of the crosswalk is no more than 1,320 feet. Such a school zone shall include the distance encompassed by the crosswalk and extending 300 feet on each approach direction of the State route;

- (2) Twenty-five miles per hour in all other portions of the Municipality, except on State routes outside business districts, through highways outside business districts and alleys;
- (3) Thirty-five miles per hour on all State routes or through highways within the Municipality outside business districts, except as provided in subsections (b)(4) and (5) hereof;
- (4) Fifty miles per hour on controlled-access highways and expressways within the Municipality;
- (5) Fifty miles per hour on State routes within the Municipality outside urban districts unless a lower prima-facie speed is established as further provided in this section;
- (6) Fifteen miles per hour on all alleys within the Municipality;
- (7) Fifty-five miles per hour at all times on freeways with paved shoulders inside the Municipality other than freeways as provided in subsection (b)(10) and (12);
- (8) Sixty miles per hour for operators of any motor vehicle at all times on all portions of rural divided highways;
- (9) Sixty-five miles per hour for operators of any motor vehicle at all times on rural expressways without traffic control signals;
- (10) Seventy miles per hour for operators of any motor vehicle at all times on all rural freeways.

- (11) Fifty-five miles per hour for operators of any motor vehicle at all times on all portions of freeways in congested areas as determined by the Director and that are part of the interstate system and are located within a municipal corporation or within an interstate freeway outerbelt;
- (12) Sixty-five miles per hour for operators of any motor vehicle at all times on all portions of freeways in urban areas as determined by the Director and that are part of the interstate system and are part of an interstate freeway outerbelt;

(c) It is prima-facie unlawful for any person to exceed any of the speed limitations in subsection (b)(1)A. to (b)(6) hereof, or any declared or established pursuant to this section by the Director or local authorities and it is unlawful for any person to exceed any of the speed limitations in subsection (d) hereof. No person shall be convicted of more than one violation of this section for the same conduct, although violations of more than one provision of this section may be charged in the alternative in a single affidavit.

- (d) No person shall operate a motor vehicle upon a street or highway as follows:
- (1) At a speed exceeding fifty-five miles per hour, except upon a highway, expressway or freeway as provided in subsection (b)(8), (9), (10) and (12) hereof;
 - (2) At a speed exceeding sixty miles per hour upon a highway as provided in subsection (b)(8) hereof;
 - (3) At a speed exceeding sixty-five miles per hour upon an expressway as provided in subsection (b)(9) hereof, except upon a freeway as provided in subsection (b)(10) hereof;
 - (4) At a speed exceeding seventy miles per hour upon a freeway as provided in subsection (b)(10) hereof;
 - (5) At a speed exceeding the posted speed limit upon a highway, expressway or freeway for which the Director has determined and declared a speed limit pursuant to Ohio R.C. 4511.21(I)(2) or (L)(2).

(e) In every charge of violation of this section the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven, and in charges made in reliance upon subsection (c) hereof also the speed which subsections (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section declares is prima-facie lawful at the time and place of such alleged violation, except that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to a stop within the assured clear distance ahead the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.

(f) When a speed in excess of both a prima-facie limitation and a limitation in subsection (d) hereof is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both subsections (b)(1)A. to (b)(6) hereof, or of a limit declared or established pursuant to this section by the Director or local authorities, and of the limitation in subsection (d) hereof. If the court finds a violation of subsection (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d) hereof. If it finds no violation of subsections (b)(1)A. to (b)(6) hereof or a limit declared or established pursuant to this section, it shall then consider whether the evidence supports a conviction under subsection (d) hereof.

(g) Points shall be assessed for violation of a limitation under subsection (d) hereof in accordance with Ohio R.C. 4510.036.

(h) Whenever, in accordance with Ohio R.C. 4511.21 or this section, the speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima-facie unlawful for any person to exceed the speed limits posted upon such signs.

(i) As used in this section:

- (1) "Interstate system" has the same meaning as in 23 U.S.C.A. 101.
- (2) "Commercial bus" means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.
- (3) "Noncommercial bus" includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.
- (4) "Outerbelt" means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.
- (5) "Rural" means outside urbanized areas, as designated in accordance with 23 USC 101, and outside of a business or urban district.

- (j) (1) A violation of any provision of this section is one of the following:
- A. Except as otherwise provided in subsections (j)(1)B., (1)C., (2) and (3) of this section, a minor misdemeanor;
 - B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;

- C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.
- (2) If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of Ohio R.C. 4511.21 or of any provision of a municipal ordinance that is substantially similar to Ohio R.C. 4511.21 and operated a motor vehicle faster than thirty-five miles an hour in a business district of a municipal corporation, faster than fifty miles an hour in other portions of a municipal corporation, or faster than thirty-five miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree.
- (3) Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.
- (ORC 4511.21)

**333.031 APPROACHING A STATIONARY PUBLIC SAFETY, EMERGENCY
OR ROAD SERVICE VEHICLE.**

(a) The driver of a motor vehicle, upon approaching a stationary public safety vehicle, an emergency vehicle, or a road service 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, an emergency vehicle, or a road service 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, an emergency vehicle, or a road service 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) 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)

(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 not attained the age of seventeen 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. unless the holder is accompanied by the holder's parent or guardian.
- B. No holder of a probationary driver's license who has attained the age of seventeen years but 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 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)A., subsection (a)(1)A. does not apply to the holder of a probationary driver's license who is traveling to or from work between the hours of midnight and six a.m. and has in the holder's immediate possession written documentation from the holder's employer.
- B. Subsection (a)(1)B. does not apply to the holder of a probationary driver's license who is traveling to or from work between the hours of one a.m. and five a.m. and has in the holder's immediate possession written documentation from the holder's employer.

- (3) An employer 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 provided an employee who is the holder of a probationary driver's license with the written documentation described in subsection (a)(2) .

The registrar of motor vehicles shall make available at no cost a form to serve as the written documentation described in subsection (a)(2), and employers 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 division.

- (4) No holder of a probationary driver's license who is less than seventeen years of age 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. hereof if, at the time of the violation, the holder of the probationary driver's license was traveling to or from an official function sponsored by the school the holder attends, or an emergency existed that required the holder to operate a motor vehicle in violation of subsection (a)(1)A. or B. hereof, or the holder was an emancipated minor.

- (c) (1) A. Except as otherwise provided in subsection (c)(2) hereof, 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 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 during whichever of the following time periods applies:

1. If, on the date the holder of the probationary driver's license pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed the moving violation, the holder has not attained the age of sixteen years six months, during the six-month period commencing on that date;
2. If, on the date the holder pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed the moving violation, the holder has attained the age of sixteen years six months but not seventeen years, until the person attains the age of seventeen years.

- B. If the holder of a probationary driver's license commits a moving violation during the six-month period after the person is issued the probationary driver's license and before the person attains the age of seventeen years and on the date the person pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed the moving violation, the person has attained the age of seventeen years, or if the person commits the moving violation during the six-month period after the person is issued the probationary driver's license and after the person attains the age of seventeen years, the

holder is not subject to the restriction described in subsection (c)(1)A.1. and 2. hereof unless the court or juvenile court imposes such a restriction upon the holder.

- (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 occupational or educational driving privileges without being accompanied by the holder's parent or guardian during the period of time specified in that subsection. The court may grant the person such driving privileges if the court finds reasonable cause to believe that the restrictions established in subsection (c)(1) will seriously affect the person's ability to continue in employment or educational training or will cause undue hardship on the license holder or a family member of the license holder. In granting the driving privileges, the court shall specify the purposes, times, and places of the privileges and shall issue the person appropriate forms setting forth the privileges granted. Occupational or educational driving privileges under this subsection shall not be granted to the same person more than once. If a person is convicted of, pleads guilty to, or is adjudicated in juvenile court of having committed a second or subsequent moving violation, any driving privileges previously granted under this subsection are terminated upon the subsequent conviction, plea, or adjudication.

- (3) No person shall violate subsection (c)(1)A. hereof.

(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 of 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.

CHAPTER 339
Commercial and Heavy Vehicles

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| 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 Weighing vehicle; removal of excess load.
339.13 Chauffeured limousines. |
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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/her discretion deems advisable, or for the duration of any construction project. The Police Chief may limit or prescribe terms or conditions of operation for such vehicle or combination of vehicles by designating the route, hours, speed or such other restrictions as may be necessary for the preservation of the public peace, property, health and safety. The Police Chief may require the posting of bond or other security necessary to compensate for any damage to a roadway or road structure.

For each such permit, the Police Chief shall charge ten dollars (\$10.00), and for each hour of time or any part thereof spent by each police officer in supervising the movement of such vehicle, the applicant shall pay the sum of twenty-five dollars (\$25.00) per hour per officer. The charge can be prorated into fifteen minute increments.

Signs shall be posted to apprise drivers of the limitations imposed by this section. Such signs shall be in accordance with the standards for traffic control devices of the State Department of Transportation. No driver shall disobey the instructions indicated on any such sign.

Violation of any of the limitations, terms or conditions of the permit granted by the Police Chief shall be cause for immediate revocation or suspension of such permit, and denial of request for any future permit. Such violation shall also subject the violator to the penalty prescribed by subsection (c) hereof.

(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-semi-trailer combination, with or without load, except that the Director may, by journal entry, prohibit the operation of any such commercial tractor-semi-trailer 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 saddlemount vehicle transporter combinations and drive-away saddlemount with fullmount vehicle transporter combinations when operated on any interstate, United States route, or State route, including reasonable access travel on all other roadways for a distance not to exceed one road mile from any interstate, United States route, or State route, not to exceed three saddlemounted vehicles, but which may include one fullmount;
B. 75 feet for drive-away saddlemount vehicle transporter combinations and drive-away saddlemount with fullmount vehicle transporter combinations, when operated on any roadway not designated as an interstate, United States route, or State route, not to exceed three saddlemounted vehicles, but which may include one fullmount;
 - (6) 65 feet for any other combination of vehicles coupled together, with or without load, except as provided in subsections (c)(3) and (4) and in subsection (e) hereof;
 - (7) 45 feet for recreational vehicles.
 - (8) 50 feet for all other vehicles except trailers and semitrailers, with or without load.

(d) No such vehicle shall have a height in excess of thirteen feet six inches, with or without load.

(e) An automobile transporter or boat transporter shall be allowed a length of sixty-five feet and a stinger-steered automobile transporter or stinger-steered boat transporter shall be allowed a length of seventy-five feet, except that the load thereon may extend no more than four feet beyond the rear of such vehicles and may extend no more than three feet beyond the front of such vehicles, and except further that the Director may prohibit the operation of any stinger-steered automobile transporter or stinger-steered boat transporter or a B-train assembly on any State highway or portion of any State highway that the Director designates.

(f) The widths prescribed in subsection (b) shall not include side mirrors, turn signal lamps, marker lamps, handholds for cab entry and egress, flexible fender extensions, mud flaps, splash and spray suppressant devices, and load-induced tire bulge.

The width prescribed in subsection (b)(5) shall not include automatic covering devices, tarp and tarp hardware, and tiedown assemblies, provided these safety devices do not extend more than three inches from each side of the vehicle.

The lengths prescribed in subsections (c)(2) to (8) hereof shall not include safety devices, bumpers attached to the front or rear of such bus or combination, nonproperty carrying devices or components that do not extend more than twenty-four inches beyond the rear of the vehicle and are needed for loading or unloading, B-train assembly used between the first and second semitrailer of a commercial tractor-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)

CHAPTER 341 Commercial Drivers

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| 341.01 Definitions.
341.02 Exemptions.
341.03 Prerequisites to operation of a commercial motor vehicle. | 341.04 Prohibitions.
341.05 Criminal offenses.
341.06 Employment of drivers of commercial vehicles. |
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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 combined gross vehicle weight rating of 26,001 pounds or more, provided the 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 rating of 26,001 pounds or more, or any such vehicle towing a vehicle having a gross vehicle weight rating that is not in excess of 10,000 pounds;
 - (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 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, a valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the Registrar of Motor Vehicles, a valid examiner's commercial driving permit issued under Ohio R.C. 4506.13, a valid restricted commercial driver's license and waiver for farm-related service industries issued under Ohio R.C. 4506.24, or a valid commercial driver's license temporary instruction permit issued by the Registrar and 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 with proper endorsements for the motor vehicle being driven.

- (2) No person who has been a resident of this State for thirty days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

(b) Nothing in subsection (a) of this section applies to any qualified person when engaged in the operation of any of the following:

- (1) A farm truck;
- (2) Fire equipment for a fire department, volunteer or nonvolunteer fire company, fire district, or joint fire district;
- (3) A public safety vehicle used to provide transportation or emergency medical service for ill or injured persons;
- (4) A recreational vehicle;
- (5) A commercial motor vehicle within the boundaries of an eligible unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, but only if either the employee who holds a commercial driver's license issued under Ohio R.C. Chapter 4506 and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance;
- (6) A vehicle operated for military purposes by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio national guard. This exception does not apply to United States reserved technicians.
- (7) A commercial motor vehicle that is operated for nonbusiness purposes. "Operated for nonbusiness purposes" means that the commercial motor vehicle is not used in commerce as "commerce" is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the Public Utilities Commission pursuant to Ohio R.C. Chapter 4905, 4921, or 4923.
- (8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise.
- (9) A police SWAT team vehicle.
- (10) A police vehicle used to transport prisoners.

(c) Nothing contained in subsection (b)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this State concerning the safe operation of commercial motor vehicles.

(d) Whoever violates this section is guilty of a misdemeanor of the first degree.
(ORC 4506.03)

341.04 PROHIBITIONS.

- (a) No person shall do any of the following:
 - (1) Drive a commercial motor vehicle while having in the person's possession or otherwise under the person's control more than one valid driver's license issued by this State, any other state or by a foreign jurisdiction;
 - (2) Drive a commercial motor vehicle on a highway in this Municipality in violation of an out-of-service order, while the person's driving privilege is suspended, revoked or canceled, or while the person is subject to disqualification;

- (3) Drive a motor vehicle on a highway in this Municipality under authority of a commercial driver's license issued by another state or a foreign jurisdiction, after having been a resident of this State for thirty days or longer.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.
(ORC 4506.04)

341.05 CRIMINAL OFFENSES.

(a) No person who holds a commercial driver's license or operates a motor vehicle for which a commercial driver's license 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 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 information specified in Ohio R.C. 4506.19.

(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 is subject to an out-of-service order in any state or a 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) Whoever violates subsection (c) of this section may be assessed a fine not to exceed ten thousand dollars. (ORC 4506.20)

351.04 MANNER OF PARALLEL PARKING.

(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) 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:
 - A. 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;
 - B. 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.
- (2) Any motor vehicle that is parked in a special marked parking location in violation of subsection (f)(1) 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.
- (3) If a person is charged with a violation of subsection (f)(1) 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).

(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. (ORC 4511.69)

(i) Whoever violates subsection (f) hereof shall be fined not less than two hundred and fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00), but in no case shall an offender be sentenced to any term of imprisonment. Arrest or conviction for a violation of subsection (f) hereof 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 4511.99)

Whoever violates any other provision of this section is guilty of a minor misdemeanor and shall be subject to the penalty provided in Section 303.99(b).

351.05 MANNER OF ANGLE PARKING.

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.

351.06 SELLING OR REPAIRING VEHICLE ON ROADWAY.

No person shall stand or park a vehicle upon any roadway for the principal purpose of displaying such vehicle for sale, or for the purpose of washing, greasing or repairing such vehicle, except repairs necessitated by an emergency. (1957 Code §351.08)

351.07 UNATTENDED VEHICLE: DUTY TO STOP ENGINE, REMOVE KEY, SET BRAKE AND TURN WHEELS.

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. (ORC 4511.661)

351.08 OPENING VEHICLE DOOR ON TRAFFIC SIDE.

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. (ORC 4511.70(C))

351.09 TRUCK LOADING ZONES.

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.

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.

351.11 PARKING IN ALLEYS AND NARROW STREETS; EXCEPTIONS.

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.

351.12 PROHIBITION AGAINST PARKING ON STREETS OR HIGHWAYS.

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. (ORC 4511.66)

351.13 NIGHT PARKING OF COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS.

No person shall park a school bus, commercial tractor, agricultural tractor, truck of more than one-half ton capacity, bus, trailer, semitrailer, pole trailer or moving van on any street within the residential districts of the Municipality between one hour after sunset and one hour before sunrise. (1957 Code §341.16)

351.14 OVERNIGHT PARKING IN BUSINESS DISTRICTS.

No person shall park any vehicle on the streets or alleys of the business districts of the City from 2:00 a.m. to 6:00 a.m. (1957 Code §351.09)

351.15 OVERNIGHT PARKING IN RESIDENTIAL DISTRICTS.

No person shall park any vehicle on the streets or alleys of the residential districts of the City from 2:00 a.m. to 6:00 a.m. during the period from November 1 to April 1. (Ord. 980 AC. Passed 10-15-73.)

CHAPTER 373
Bicycles and Motorcycles

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|---------------|--|---------------|--|
| 373.01 | Code application to bicycles. | 373.08 | Reckless operation; control, course and speed. |
| 373.02 | Riding upon seats; handle bars; helmets and glasses. | 373.09 | Parking of bicycle. |
| 373.03 | Attaching bicycle or sled to vehicle. | 373.10 | Sidewalk riding in business districts prohibited. |
| 373.04 | Riding bicycles and motorcycles abreast. | 373.11 | Bicycle registration. |
| 373.05 | Signal device on bicycle. | 373.12 | Motorized bicycle operation, equipment and license. |
| 373.06 | Lights and reflector on bicycle; brakes. | 373.13 | Paths exclusively for bicycles. |
| 373.07 | Riding bicycle on right side of roadway; obedience to traffic rules; passing. | 373.99 | Penalty. |

CROSS REFERENCES

See sectional histories for similar State law

Bicycle defined - see TRAF. 301.04

Motorcycle defined - see TRAF. 301.19

Bicycles prohibited on freeways - see TRAF. 303.06

Motorcycle operator's license required - see TRAF. 335.01(a)

Motorcycle headlight - see TRAF. 337.03

Motorcycle brakes - see TRAF. 337.18(b)

373.01 CODE APPLICATION TO BICYCLES.

(a) The provisions of this Traffic Code that are applicable to bicycles apply whenever a bicycle is operated upon any street or upon any path set aside for the exclusive use of bicycles.

(b) Except as provided in subsection (d) of this section, a bicycle operator who violates any section of this Traffic Code described in subsection (a) of this section that is applicable to bicycles may be issued a ticket, citation or summons by a law enforcement officer for the violation in the same manner as the operator of a motor vehicle would be cited for the same violation. A person who commits any such violation while operating a bicycle shall not have any points assessed against the person's driver's license, commercial driver's license, temporary instruction permit, or probationary license under Ohio R.C. 4510.036.

(c) Except as provided in subsection (d) of this section, in the case of a violation of any section of this Traffic Code described in subsection (a) of this section by a bicycle operator or by a motor vehicle operator when the trier of fact finds that the violation by the motor vehicle operator endangered the lives of bicycle riders at the time of the violation, the court, notwithstanding any provision of this Traffic Code to the contrary, may require the bicycle operator or motor vehicle operator to take and successfully complete a bicycling skills course approved by the court in addition to or in lieu of any penalty otherwise prescribed by the Traffic Code for that violation.

(d) Subsections (b) and (c) of this section do not apply to violations of Section 333.01 of this Traffic Code. (ORC 4511.52)

(e) The provisions of this Traffic Code shall apply to bicycles except those which by their nature are not applicable.

373.02 RIDING UPON SEATS; HANDLE BARS; HELMETS AND GLASSES.

(a) For purposes of this section "snowmobile" has the same meaning as given that term in Ohio R.C 4519.01.

(b) No person operating a bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, or carry any other person upon such bicycle other than upon a firmly attached and regular seat thereon, and no person shall ride upon a bicycle other than upon such a firmly attached and regular seat.

(c) No person operating a motorcycle shall ride other than upon or astride the permanent and regular seat or saddle attached thereto, or carry any other person upon such motorcycle other than upon a firmly attached and regular seat or saddle thereon, and no person shall ride upon a motorcycle other than upon such a firmly attached and regular seat or saddle.

(d) No person shall ride upon a motorcycle that is equipped with a saddle other than while sitting astride the saddle, facing forward, with one leg on each side of the motorcycle.

(e) No person shall ride upon a motorcycle that is equipped with a seat other than while sitting upon the seat.

(f) No person operating a bicycle shall carry any package, bundle or article that prevents the driver from keeping at least one hand upon the handle bars.

(g) No bicycle or motorcycle shall be used to carry more persons at one time than the number for which it is designed and equipped. No motorcycle shall be operated on a highway when the handlebars rise higher than the shoulders of the operator when the operator is seated in the operator's seat or saddle.

(h) No person shall operate or be a passenger on a snowmobile or motorcycle without using safety glasses or other protective eye device. 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 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.

- (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 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;

- (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) "School safety zone" consists of a school, school building, school premises, school activity, and school bus.
- (o) "School", "school building" and "school premises" have the same meaning as in Ohio R.C. 2925.01.
- (p) "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 body of an educational service center, or the governing body of a school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07.
- (q) "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 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.

(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) Conspire with another to commit the offense in violation of Ohio R.C. 2923.01 (Conspiracy);
- (4) 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 606.21.

(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 or her complicity, moral turpitude or self-interest, but the admitted or claimed complicity of a witness may affect his or her credibility and make his or her 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 or her complicity under circumstances manifesting a complete and voluntary renunciation of his or her 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 or she were the 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/she 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/she 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/she has direct responsibility;
- (2) He/she 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/she is subject to the same penalty as if he/she had acted in his/her own behalf. (ORC 2901.24)

CHAPTER 506
Clean Indoor Air

506.01	Definitions.	506.05	Areas where smoking is not regulated by this chapter.
506.02	Prohibition.	506.06	General provisions.
506.03	Declaration of establishment as nonsmoking.	506.99	Penalty.
506.04	Enforcement.		

CROSS REFERENCES
Sale of cigarettes - see GEN. OFF. 537.16

506.01 DEFINITIONS.

(a) **"Electronic Cigarette or e-cigarette"** means any electronic product or device that simulates smoking by producing a vapor that delivers nicotine or any other substance to the person inhaling from the device and that is or is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe.

- (1) Electronic Cigarette or "e-cigarette" does not include the following:
- A. Any product that is a "drug" as that term is defined in 21 U.S.C. 321(g)(1);
 - B. Any product that is a "device" as that term as defined in 21 U.S.C. 321(h);
 - C. Any product that is a "combination product" as described in 21 U.S.C. 353(g).

(b) **"Employee"** means a person who is employed by an employer, or who contracts with an employer or third person to perform services for an employer, or who otherwise performs services for an employer for compensation or for no compensation.

(c) **"Employer"** means the state or any individual, business, association, political subdivision, or other public or private entity, including a nonprofit entity, that employs or contracts for or accepts the provision of services from one or more employees.

(d) **"Enclosed area"** means an area with a roof or other overhead covering of any kind and walls or side coverings of any kind, regardless of the presence of openings for ingress and egress, on all sides or on all sides but one.

(e) **"Outdoor patio"** means an area that is either: enclosed by a roof or other overhead covering and walls or side coverings on not more than two sides; or has no roof or other overhead covering regardless of the number of walls or other side coverings.

(f) **"Proprietor"** means an employer, owner, manager, operator, liquor permit holder, or person in charge or control of a public place or place of employment.

(g) **"Person"** means any individual, firm, partnership, association, corporation, company or organization of any kind.

(h) **"Place of employment"** means an enclosed area under the direct or indirect control of an employer that the employer's employees use for work or any other purpose, including but not limited to, offices, meeting rooms, sales, production and storage areas, restrooms, stairways, hallways, warehouses, garages, and vehicles. An enclosed area as described herein is a place of employment without regard to the time of day or the presence of employees.

(i) **"Public place"** means an enclosed area to which the public is invited or in which the public is permitted and that is not a private residence.

(j) **"Smoke or Smoking"** means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted smoking device for burning tobacco or any other plant, or the lighting, activating, emitting or exhaling the smoke or vapor of a pipe, cigar, or electronic cigarette.

(Ord. 14-20 AC CMS. Passed 6-2-14.)

506.02 PROHIBITION.

(a) No proprietor of a public place or place of employment, except as permitted in Section 506.05 of this chapter, shall permit smoking in the public place or place of employment or in the areas directly or indirectly under the control of the proprietor immediately adjacent to locations of ingress or egress to the public place or place of employment.

(b) A proprietor of a public place or place of employment shall ensure that tobacco smoke or e-cigarette vapor does not enter any area in which smoking is prohibited under this chapter through entrances, windows, ventilation systems, or other means.

(c) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an individual for exercising any right, including reporting a violation, or performing any obligation under this chapter.

(d) No person shall refuse to immediately discontinue smoking in a public place, place of employment, or establishment, facility or other area declared nonsmoking under Section 506.03 of this chapter when requested to do so by the proprietor or any employee of an employer of the public place, place of employment or establishment, facility or outdoor area.

(e) Lack of intent to violate a provision of this chapter shall not be a defense to a violation.

(Ord. 14-20 AC CMS. Passed 6-2-14.)

506.03 DECLARATION OF ESTABLISHMENT AS NONSMOKING

Notwithstanding any other provision of this chapter, the owner, manager, operator, or other person in charge or control of an establishment, facility, or outdoor area which does not otherwise qualify as a public place or place of employment may declare such establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place declared to be nonsmoking under this section where a sign conforming to the requirements of Section 3794.06 of the Ohio Revised Code is posted. Such signage shall be applicable to the use of e-cigarettes where it clearly indicates that the use of e-cigarettes is prohibited.
(Ord. 14-20 AC CMS. Passed 6-2-14.)

506.04 ENFORCEMENT.

(a) The owner or other person having the authority to manage and control any public place or place of employment, or a designated agent of such owner or manager, shall inform persons smoking in restricted areas that they are in violation of this chapter.

(b) The City Manager or his/her designee shall enforce the provisions of this chapter by any legal means including the following:

- (1) Issue a notice requiring the correction of the violation of this chapter;
- (2) Cause the issuance of a complaint and summons to appear before the Oberlin Municipal Court.
- (3) Refer a violation of this chapter as it relates to tobacco or other plant to the Ohio Department of Health or its authorized designee for enforcement under the Ohio Revised Code or the Ohio Administrative Code

(c) Any resident may make a complaint to the City Manager.
(Ord. 14-20 AC CMS. Passed 6-2-14.)

506.05 AREAS WHERE SMOKING IS NOT REGULATED BY THIS CHAPTER.

The following shall be exempt from the provisions of this chapter:

- (a) Private residences, except during the hours of operation as a child care or adult care facility for compensation, during the hours of operation as a business by a person other than a person residing in the private residence, or during the hours of operation as a business, when employees of the business, who are not residents of the private residence or are not related to the owner, are present.
- (b) Rooms for sleeping in hotels, motels and other lodging facilities designated as smoking rooms; provided, however, that not more than twenty percent of sleeping rooms may be so designated.
- (c) Family-owned and operated places of employment in which all employees are related to the owner, but only if the enclosed areas of the place of employment are not open to the public, are in a free standing structure occupied solely by the place of employment, and smoke from the place of employment does not migrate into an enclosed area where smoking is prohibited under the provisions of this chapter.

- (d) Any nursing home, as defined in Section 3721.10(A) of the Revised Code, but only to the extent necessary to comply with Section 3721.13(A)(18) of the Revised Code. If indoor smoking area is provided by a nursing home for residents of the nursing home, the designated indoor smoking area shall be separately enclosed and separately ventilated so that tobacco smoke does not enter, through entrances, windows, ventilation systems, or other means, any areas where smoking is otherwise prohibited under this chapter. Only residents of the nursing home may utilize the designated indoor smoking area for smoking. A nursing home may designate specific times when the indoor smoking area may be used for such purpose. No employee of a nursing shall be required to accompany a resident into a designated indoor smoking area or perform services in such area when being used for smoking.
- (e) Retail tobacco stores as defined in Section 3794.01(H) the Revised Code in operation prior to the effective date of this section. Any retail tobacco store that begins operation after the effective date of this section or any existing retail tobacco store that relocates to another location after the effective date of this section may only qualify for this exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited under the provisions of this chapter.
- (f) Outdoor patios as defined in Section 3794.01(I) of the Revised Code. All outdoor patios shall be physically separated from an enclosed area. If windows or doors form any part of the partition between an enclosed area and the outdoor patio, the openings shall be closed to prevent the migration of smoke into the enclosed area. If windows or doors do not prevent the migration of smoke into the enclosed area, the outdoor patio shall be considered an extension of the enclosed area and subject to the prohibitions of this chapter.
- (g) Private clubs as defined in Section 4301.01(B)(13) of the Revised Code, provided all of the following apply: the club has no employees; the club is organized as a not for profit entity; only members of the club are present in the club's building; no persons under the age of eighteen are present in the club's building; the club is located in a freestanding structure occupied solely by the club; smoke from the club does not migrate into an enclosed area where smoking is prohibited under the provisions of this chapter; and, if the club serves alcohol, it holds a valid D4 liquor permit.
(Ord. 14-20 AC CMS. Passed 6-2-14.)

506.06 GENERAL PROVISIONS.

- (a) Nothing in this chapter shall be construed to permit smoking where it is otherwise prohibited by law or other regulation.
- (b) Nothing in this chapter shall be construed to preclude any owner or other person having the authority to manage and control any public place or place of employment, other than a building or facility owned or leased by the City, from prohibiting smoking to a greater extent than is provided by this chapter.
(Ord. 14-20 AC CMS. Passed 6-2-14.)

506.99 PENALTY.

(a) As is pertains to proprietors, a violation of Section 506.02 shall be a minor misdemeanor. A second violation within two years of a conviction of a violation of Section 506.02 shall be a misdemeanor of the second degree. A third violation of Section 506.02 within two years of a conviction of a violation of Section 506.02 shall be a misdemeanor of the First Degree.

(b) As it pertains to individuals, a violation Section 506.02 shall be a minor misdemeanor.

(c) Penalties for a violation of Section 506.02 shall be in accordance with Sections 2929.21 through 2929.36 of the Ohio Ohio Revised Code.
(Ord. 14-20 AC CMS. Passed 6-2-14.)

CHAPTER 513 Drug Abuse Control

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| <p>513.01 Definitions.</p> <p>513.02 Gift of marihuana.</p> <p>513.03 Drug abuse; controlled substance possession or use.</p> <p>513.04 Possessing drug abuse instruments.</p> <p>513.05 Permitting drug abuse.</p> <p>513.06 Illegal cultivation of marihuana.</p> <p>513.07 Possessing or using harmful intoxicants.</p> <p>513.08 Illegally dispensing drug samples.</p> <p>513.09 Controlled substance or prescription labels.</p> | <p>513.10 Hypodermic possession, display and dispensing.</p> <p>513.11 Harmful intoxicants; possessing nitrous oxide in motor vehicle.</p> <p>513.12 Drug paraphernalia.</p> <p>513.121 Marihuana drug paraphernalia.</p> <p>513.13 Counterfeit controlled substances.</p> <p>513.14 Offender may be required to pay for controlled substance tests.</p> <p>513.99 Penalty.</p> |
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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

513.01 DEFINITIONS.

As used in this chapter, certain terms are defined as follows:

- (a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means to a person or an animal.
- (b) "Controlled substance" means a drug, compound, mixture, preparation or substance included in Schedule I, II, III, IV, or V.
- (c) "Dispense" means sell, leave with, give away, dispose of or deliver.
- (d) "Distribute" means to deal in, ship, transport or deliver but does not include administering or dispensing a drug.
- (e) "Hypodermic" means a hypodermic syringe or needle, or other instrument or device for the injection of medication.

- (f) "Manufacturer" means a person who manufactures a controlled substance as "manufacture" is defined in Ohio R.C. 3715.01.
- (g) Except as provided in subsection (g)(2) hereof:
 - (1) "Marihuana" means all parts of a plant of the genus cannabis, whether growing or not, the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture or preparation of a plant of that type or of its seeds or resin. "Marihuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. (ORC 3719.01)
 - (2) "Marihuana" does not include hashish. (ORC 2925.01)
- (h) "Controlled substance analog" has the same meaning as provided in Ohio R.C. 3719.01.
- (i) "Official written order" means an order written on a form provided for that purpose by the Director of the United States Drug Enforcement Administration, under any laws of the United States making provision for the order, if the order forms are authorized and required by Federal law.
- (j) "Pharmacist" means a person licensed under Ohio R.C. Chapter 4729 to engage in the practice of pharmacy.
- (k) "Pharmacy" has the same meaning as in Ohio R.C. 4729.01.
- (l) "Poison" means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less.
- (m) "Licensed health professional authorized to prescribe drugs", "prescriber" and "prescription" have the same meanings as in Ohio R.C. 4729.01.
- (n) "Sale" includes delivery, barter, exchange, transfer or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant or employee.

- (o) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" and "Schedule V" mean controlled substance Schedules I, II, III, IV, and V respectively, established pursuant to Ohio R.C. 3719.41, as amended pursuant to Ohio R.C. 3719.43 or 3719.44.
- (p) "Wholesaler" means a person who, on official written orders other than prescriptions, supplies controlled substances that the person has not manufactured, produced or prepared personally and includes a "wholesale distributor of dangerous drugs" as defined in Ohio R.C. 4729.01.
(ORC 3719.01)
- (q) "Drug of abuse" means any controlled substance as defined in subsection (b) hereof, any harmful intoxicant as defined in subsection (x) hereof and any dangerous drug as defined in subsection (r) hereof.
(ORC 3719.011)
- (r) "Dangerous drug" means any of the following:
 - (1) Any drug to which either of the following applies:
 - A. Under the "Federal Food, Drug, and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;
 - B. Under Ohio R.C. Chapter 3715 or 3719, the drug may be dispensed only upon a prescription.
 - (2) Any drug that contains a Schedule V narcotic drug and that is exempt from Ohio R.C. Chapter 3719 or to which that chapter does not apply;
 - (3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body. (ORC 4729.02)
- (s) "Bulk amount" of a controlled substance means any of the following:
 - (1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II or Schedule III, with the exception of controlled substance analogs, marihuana, cocaine, L.S.D., heroin, and hashish and except as provided in subsection (s)(2) or (5) hereof, whichever of the following is applicable:
 - A. An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;
 - B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;
 - C. An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol, or lysergic acid amide, or a Schedule I stimulant or depressant;
 - D. An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;
 - E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;

- F. An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the Federal Drug Abuse Control laws as defined in Ohio R.C. 3719.01, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
- G. An amount equal to or exceeding three grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act and the Federal Drug Abuse Control laws;
- (2) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
- (3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;
- (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance.
- (5) An amount equal to or exceeding 200 solid dosage units, sixteen grams or sixteen milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid.
- (t) "Unit dose" means an amount or unit of a compound, mixture or preparation containing a controlled substance, that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.
- (u) "Cultivate" includes planting, watering, fertilizing or tilling.
- (v) "Drug abuse offense" means any of the following:
 - (1) A violation of Ohio R.C. 2925.02, 2925.03, 2925.04 to 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37; or a violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs;
 - (2) A violation of an existing or former law of this or any other state or of the United States, that is substantially equivalent to any section listed in subsection (v)(1) hereof;
 - (3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element;

- (4) A conspiracy or attempt to commit, or complicity in committing or attempting to commit any offense under subsection (v)(1), (2) or (3) hereof.
- (w) "Felony drug abuse offense" means any drug abuse offense that would constitute a felony under the laws of this State, any other state or the United States.
- (x) "Harmful intoxicant" does not include beer or intoxicating liquor, but means any of the following:
 - (1) Any compound, mixture, preparation or substance the gas, fumes or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation or other harmful physiological effects, and includes, but is not limited to, any of the following:
 - A. Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;
 - B. Any aerosol propellant;
 - C. Any fluorocarbon refrigerant;
 - D. Any anesthetic gas.
 - (2) Gamma Butyrolactone;
 - (3) 1,4 Butanediol.
- (y) "Manufacture" means to plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production.
- (z) "Possess" or "possession" means having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.
- (aa) "Sample drug" means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.
- (bb) "Standard pharmaceutical reference manual" means the current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.
- (cc) "Juvenile" means a person under eighteen years of age.
- (dd) "School" means any school operated by a board of education, any community school established under Ohio R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.

- (ee) "School premises" means either of the following:
 - (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the premises at the time a criminal offense is committed;
 - (2) Any other parcel of real property that is owned or leased by a board of education of a school, any community school established under Ohio R.C. Chapter 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.
- (ff) "School building" means any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.
- (gg) "Counterfeit controlled substance" means:
 - (1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to that trademark, trade name or identifying mark; or
 - (2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it; or
 - (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance; or
 - (4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its marking, labeling, packaging, distribution or the price for which it is sold or offered for sale.
- (hh) An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within one thousand feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within one thousand feet of the boundaries of any school premises.
- (ii) An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within one hundred feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within one hundred feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.
- (jj) "Hashish" means the resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.
- (kk) "Public premises" means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.
- (ll) "Methamphetamine" means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.

- (mm) "Lawful prescription" means a prescription that is issued for a legitimate medical purpose by a licensed health professional authorized to prescribe drugs, that is not altered or forged, and that was not obtained by means of deception or by the commission of any theft offense.
- (nn) "Deception" and "theft offense" have the same meanings as in Ohio R.C. 2913.01. (ORC 2925.01)

513.02 GIFT OF MARIHUANA.

(a) No person shall knowingly give or offer to make a gift of twenty grams or less of marihuana.

(b) Whoever violates this section is guilty of trafficking in marihuana. Trafficking in marihuana is a minor misdemeanor for the first offense and, for any subsequent offense, it is a misdemeanor of the third degree. If the offense was committed in the vicinity of a school or the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

(c) The court may suspend for not less than six months or 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. 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) This section does not apply to the following:

- (1) 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.
- (2) 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;
- (3) 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;
- (4) Any person who obtained the controlled substance pursuant to a lawful prescription issued by a licensed health professional authorized to prescribe drugs.

- (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 less than six months or more than five years the offender's driver's or commercial driver's license or permit.

CHAPTER 517 Gambling

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|--------|---|--------|---|
| 517.01 | Definitions. | 517.10 | Location of instant bingo. |
| 517.02 | Gambling. | 517.11 | Bingo or game of chance records. |
| 517.03 | Operating a gambling house. | 517.12 | Bingo operator prohibitions. |
| 517.04 | Public gaming. | 517.13 | Bingo exceptions. |
| 517.05 | Cheating. | 517.14 | Instant bingo conduct by a veteran's or fraternal organization. |
| 517.06 | Methods of conducting a bingo game; prohibitions. | 517.15 | Fortunetelling and clairvoyancy. |
| 517.07 | Instant bingo conduct. | 517.16 | Skill-based amusement machines. |
| 517.08 | Raffles. | 517.99 | Penalty. |
| 517.09 | Charitable instant bingo organizations. | | |

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.

- (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.

CHAPTER 525
Law Enforcement and Public Office

525.01	Definitions.	525.10	Having an unlawful interest in a public contract.
525.02	Falsification.	525.11	Soliciting or receiving improper compensation.
525.03	Impersonation of peace officer.	525.12	Dereliction of duty.
525.04	Compounding a crime.	525.13	Interfering with civil rights.
525.05	Failure to report a crime, injury or knowledge of death.	525.14	Unauthorized display of law enforcement emblems on motor vehicles.
525.06	Failure to aid a law enforcement officer.	525.15	False allegation of peace officer misconduct.
525.07	Obstructing official business.	525.16	Refusal to disclose personal information in public place.
525.08	Obstructing justice.	525.99	Penalty.
525.09	Resisting arrest.		
525.091	Compliance with lawful order of police officer; fleeing.		

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.

- (f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, registered or licensed practical nurse, psychologist, social worker, independent social worker, social work assistant, professional clinical counselor, or professional counselor, 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 doctor-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted pursuant to subsection (f)(1) hereof, and the information may be admitted as evidence in accordance with the rules of evidence.

(g) Subsection (a) or (d) hereof does 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, doctor and patient, licensed psychologist or licensed school psychologist and client, member of the clergy or rabbi or minister or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister or priest for a religious counseling purpose in the professional character of the member of the clergy, rabbi, minister, or priest, 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 such by a person seeking the aid or counsel or 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 services provider 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 such 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) hereof is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.

- (k) (1) Whoever negligently violates subsection (e) hereof is guilty of a minor misdemeanor.
 - (2) Whoever knowingly violates subsection (e) hereof is guilty of a misdemeanor of the second degree.
- (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.

CHAPTER 529 Liquor Control

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| <p>529.01 Definitions.</p> <p>529.02 Sales to and use by underage persons; securing public accommodations.</p> <p>529.021 Purchase, consumption or possession by minor; misrepresentation. (Repealed)</p> <p>529.03 Sales to intoxicated persons.</p> <p>529.04 Liquor consumption in motor vehicle.</p> <p>529.05 Permit required.</p> | <p>529.06 Printed warnings to be posted.</p> <p>529.07 Open container prohibited.</p> <p>529.08 Hours of sale or consumption.</p> <p>529.09 Conveying intoxicating liquor or cash onto grounds of detention facilities or other institutions.</p> <p>529.10 Sales of low-alcohol beverages to underage persons; prohibitions and misrepresentations.</p> <p>529.99 Penalty.</p> |
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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

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) "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, but not more than twelve percent (12%) of alcohol by volume.
- (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/her 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/she 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.

2. "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than one hundred fifty acres of land and that is open for performances from the first day of April to the last day of October of each year.

(4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in subsection (c)(3)B.1. hereof if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.

(5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending an orchestral performance and the holder the F-9 permit grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued.

As used in subsection (c)(5) hereof, "orchestral performance" has the same meaning as in subsection (c)(3)B. of this section.

(6) A. A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:

1. The person is attending a racing event at the facility; and
2. The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility;

B. As used in subsection (c)(6)A. of this section:

1. "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.
2. "Outdoor motorsports facility" means an outdoor racetrack to which all of the following apply:
 - a. It is two and four-tenths miles or more in length.
 - b. It is located on two hundred acres or more of land.
 - c. The primary business of the owner of the facility is the hosting and promoting of racing events.
 - d. The holder of a D-1, D-2 or D-3 permit is located on the property of the facility.

(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. (ORC 4301.62)

(f) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4301.99(A))

529.08 HOURS OF SALE OR CONSUMPTION.

(a) This rule shall apply to the retail sale of beer, wine, mixed beverages, or spirituous liquor.

(b) No beer, wine, mixed beverages, or spirituous liquor shall be sold or delivered by an A-1, A-2, B-1, B-2, B-4, B-5, C-1, C-2, C-2X, D-1, D-2, D-2X, D-3 when issued without a D-3A, D-3X, D-4, D-5G, D-5H, D-5K, D-8, F, F-1, F-2, F-3, F-4, F-5, F-6, G or I permit holder:

- (1) From Monday to Saturday between the hours of one a.m. and five thirty a.m.
- (2) On Sunday between the hours of one a.m. and Sunday midnight, unless statutorily authorized otherwise.
- (3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages, or spirituous liquor for on-premises consumption.

(c) No beer, wine, mixed beverages, or spirituous liquid shall be sold or delivered by an A-1A, D-3 when issued with a D-3A, D-4A, D-5, D-5A, D-5B, D-5C, D-5D, D-5E, D-5F, D-5I, D-5J, or D-7 permit holder:

- (1) From Monday to Saturday between the hours of two thirty a.m. and five thirty a.m.
- (2) On Sunday between the hours of two thirty a.m. and Sunday midnight, unless statutorily authorized otherwise.
- (3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages or spirituous liquor for on-premises consumption.

(d) Permit holders authorized to sell beer, wine, mixed beverages, or spirituous liquor at retail who are not specifically identified in subsection (b) or (c) above shall be subject to the provisions of subsection (b), unless statutorily authorized otherwise.

(e) The hours on Sunday during which sales, delivery, or consumption of alcoholic beverages may take place are established by statute, but in no event shall they begin prior to five thirty a.m. (OAC 4301:1-1-49)

- (f) Whoever violates this section is guilty of a minor misdemeanor.

529.09 CONVEYING INTOXICATING LIQUOR OR CASH ONTO GROUNDS OF DETENTION FACILITIES OR OTHER INSTITUTIONS.

(a) No person shall knowingly convey, or attempt to convey, onto the grounds of a detention facility or of an institution that is under the control of the Ohio Department of Mental Health or the Ohio Department of Mental Retardation and Developmental Disabilities, any intoxicating liquor, as defined in Section 529.01.

(b) Subsection (a) hereof does not apply to any person who conveys or attempts to convey an item onto the grounds of a detention facility or of an institution under the control of the Ohio Department of Mental Health or the Ohio Department of Mental Retardation and Developmental Disabilities pursuant to the written authorization of the person in charge of the detention facility or the institution and in accordance with the written rules of the detention facility or the institution.

(c) No person shall knowingly deliver, or attempt to deliver, to any person who is confined in a detention facility or to any patient in an institution under the control of the Ohio Department of Mental Health or the Ohio Department of Mental Retardation and Developmental Disabilities, any intoxicating liquor as defined in Section 529.01.

(d) No person shall knowingly deliver, or attempt to deliver cash to any person who is confined in a detention facility.

(e) It is an affirmative defense to a charge under subsection (c) hereof that the actor was not otherwise prohibited by law from delivering the item to the confined person or the patient and that either of the following applies:

- (2) The actor was permitted by the written rules of the detention facility or the institution to deliver the item to the confined person or the patient.
- (3) The actor was given written authorization by the person in charge of the detention facility or the institution to deliver the item to the confined person or the patient.

(f) Whoever violates subsection (a) or (c) hereof is guilty of a misdemeanor of the second degree. Whoever violates subsection (d) hereof is guilty of a misdemeanor, provided the offender has not previously been convicted of or pleaded guilty to a violation of subsection (d) hereof. (ORC 2921.36)

529.10 SALES OF LOW-ALCOHOL BEVERAGES TO UNDERAGE PERSONS; PROHIBITIONS AND MISREPRESENTATIONS.

(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 or her name, age or other identification for the purpose of purchasing or otherwise obtaining any low-alcohol beverage in any place in this State.

(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 or her 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.

No permit issued by the Ohio Department of Liquor Control shall be suspended, revoked or cancelled because of a violation of this subsection or subsection (g) hereof.

(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 subsection 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 or she 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 or her 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) No low-alcohol beverage shall be sold to any person under eighteen years of age.
(ORC 4301.22)

(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(F))

(l) Whoever violates subsections (c) through (j) hereof is guilty of a misdemeanor of the fourth degree. (ORC 4301.99(B))

529.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

(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.

(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. (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 cause mental distress to the other person.

(2) No person, through the use of any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, or computer system, shall post a message with purpose to 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.

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) or (4) 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.

(NOTE: The next printed page is 76M.)

(b) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco 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, or papers used to roll cigarettes, and no other person shall do any of the following:

- (1) Give, sell, or otherwise distribute cigarettes, other tobacco products, or papers used to roll cigarettes to any child;
- (2) Give away, sell or distribute cigarettes, other tobacco products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a sign stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, or papers used to roll cigarettes to a person under eighteen years of age is prohibited by law;
- (3) Knowingly furnish any false information regarding the name, age, or other identification of any child with purpose to obtain cigarettes, other tobacco products, or papers used to roll cigarettes for that child.

(c) No person shall sell or offer to sell cigarettes or other tobacco products by or from a vending machine, except in the following locations:

- (1) An area within a factory, business, office, or other place not open to the general public;
- (2) An area to which children are not generally permitted access;
- (3) Any other place not identified in subsection (c)(1) or (2) of this section, upon all of the following conditions:
 - A. The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes and other tobacco product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.
 - B. The vending machine is inaccessible to the public when the place is closed.

(d) The following are affirmative defenses to a charge under subsection (b)(1) of this section:

- (1) The child was accompanied by a parent, spouse who is eighteen years of age or older, or legal guardian of the child.
- (2) The person who gave, sold, or distributed cigarettes, other tobacco products, or papers used to roll cigarettes to a child under subsection (b)(1) of this section is a parent, spouse who is eighteen years of age or older, or legal guardian of the child.

(e) It is not a violation of subsection (b)(1) or (2) of this section for a person to give or otherwise distribute to a child cigarettes, other tobacco products, or papers used to roll cigarettes while the child is participating in a research protocol if all of the following apply:

- (1) The parent, guardian, or legal custodian of the child has consented in writing to the child participating in the research protocol.
- (2) An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol.
- (3) The child is participating in the research protocol at the facility or location specified in the research protocol.

- (f) (1) Whoever violates subsection (b)(1) or (2) or (c) of this section is guilty of illegal distribution of cigarettes or other tobacco products, a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (b)(1) or (2) or (c) of this section, illegal distribution of cigarettes or other tobacco products is a misdemeanor of the third degree.
- (2) Whoever violates subsection (b)(3) of this section is guilty of permitting children to use cigarettes or other tobacco products, a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (b)(3) of this section, permitting children to use cigarettes or other tobacco products is a misdemeanor of the third degree.

(g) Any cigarettes, other tobacco products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a child in violation of this section and that are used, possessed, purchased, or received by a child in violation of Ohio R.C. 2151.87 are subject to seizure and forfeiture as contraband under Ohio R.C. Chapter 2981. (ORC 2927.02)

537.17 CRIMINAL CHILD ENTICEMENT.

(a) No person, by any means and without privilege to do so, shall knowingly solicit, coax, entice or lure any child under fourteen years of age to accompany the person in any manner, including entering into any vehicle, or onto any vessel, whether or not the offender knows the age of the child, if both of the following apply:

- (1) The actor does not have the express or implied permission of the parent, guardian or other legal custodian of the child in undertaking the activity;
- (2) The actor is not a law enforcement officer, medic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of any Board of Education, or the actor is any of such persons, but, at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.

(b) No person, with a sexual motivation, shall violate subsection (a) of this section.

(c) No person, for any unlawful purpose other than, or in addition to, that proscribed by subsection (a) of this section, shall engage in any activity described in subsection (a) of this section.

(d) It is an affirmative defense to a charge under subsection (a) hereof that the actor undertook the activity in response to a bona fide emergency situation or that the actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety or welfare of the child.

(e) Whoever violates this section is guilty of criminal child enticement, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section or Ohio R.C. 2905.05, 2907.02, or 2907.03, or former Section 2907.12, or Ohio R.C. 2905.01 or 2907.05 when the victim of that prior offense was under seventeen years of age at the time of the offense, criminal child enticement is a felony and shall be prosecuted under appropriate State law.

(f) As used in this section:

- (1) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.
 - (2) "Vehicle" has the same meaning as in Ohio R.C. 4501.01.
 - (3) "Vessel" has the same meaning as in Ohio R.C. 1547.01.
- (ORC 2905.05)

(NOTE: The next printed page is page 76S.)

CHAPTER 545 Theft and Fraud

545.01	Definitions.	545.11	Making or using slugs.
545.02	Determining property value in theft offense.	545.12	Tampering with coin machines.
545.03	Property exceptions as felony offense.	545.13	Criminal simulation.
545.04	Detention of shoplifters; rights of museums and libraries.	545.14	Tampering with records.
545.05	Petty theft.	545.15	Securing writings by deception.
545.06	Unauthorized use of a vehicle; vehicle trespass.	545.16	Personating an officer.
545.07	Insurance fraud.	545.17	Defrauding creditors.
545.08	Unauthorized use of property.	545.18	Receiving stolen property.
545.09	Passing bad checks.	545.19	Possession of criminal tools.
545.10	Misuse of credit cards.	545.20	Forgery of identification cards.
		545.21	Identity fraud.
		545.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Property defined - see GEN. OFF. 501.01(j)
 Cheating - see GEN. OFF. 517.05
 Falsification - see GEN. OFF. 525.02
 Impersonating a public servant - see GEN. OFF. 525.03

545.01 DEFINITIONS.

As used in this chapter, unless the context requires that a term be given a different meaning:

- (a) "Deception" means knowingly deceiving another or causing another to be deceived, by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act or omission that creates, confirms or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.

- (b) "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.
- (c) "Deprive" means to do any of the following:
 - (1) Withhold property of another permanently, or for such period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;
 - (2) Dispose of property so as to make it unlikely that the owner will recover it;
 - (3) Accept, use or appropriate money, property or services, with purpose not to give proper consideration in return for the money, property or services, and without reasonable justification or excuse for not giving proper consideration.
- (d) "Owner" means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license or interest is unlawful.
- (e) "Services" include labor, personal services, professional services, rental services, public utility services, including wireless service as defined in Ohio R.C. 5507.01(F)(1), common carrier services, and food, drink, transportation, entertainment and cable television services.
- (f) "Writing" means any computer software, document, letter, memorandum, note, paper, plate, data, film or other thing having in or upon it any written, typewritten or printed matter, and any token, stamp, seal, credit card, badge, trademark, label or other symbol of value, right, privilege, license or identification.
- (g) "Forge" means to fabricate or create, in whole or in part and by any means any spurious writing, or to make, execute, alter, complete, reproduce or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.
- (h) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver or display.
- (i) "Coin machine" means any mechanical or electronic device designed to do both of the following:
 - (1) Receive a coin, bill, or token made for that purpose;
 - (2) In return for the insertion or deposit of a coin, bill or token, automatically dispense property, provide a service or grant a license.
- (j) "Slug" means an object that, by virtue of its size, shape, composition or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill or token made for that purpose.
- (k) "Theft offense" means any of the following:
 - (1) A violation of Ohio R.C. 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42 to 2913.45, 2913.47, 2913.48, 2913.51, 2915.05, 2915.06, or 2921.41.

- (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 or disabled adult, or
- (3) The property stolen is a firearm or dangerous ordnance, or
- (4) The property stolen is a motor vehicle.
- (5) The property stolen is any dangerous drug.
- (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.
- (7) The property stolen is anhydrous ammonia.
- (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;

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

- | | |
|---|---|
| <p>549.01 Definitions.</p> <p>549.02 Carrying concealed weapons. (Repealed)</p> <p>549.03 Using weapons while intoxicated. (Repealed)</p> <p>549.04 Improperly handling firearms in a motor vehicle. (Repealed)</p> <p>549.05 Failure to secure dangerous ordnance. (Repealed)</p> <p>549.06 Unlawful transactions in weapons. (Repealed)</p> | <p>549.07 Underage purchase of firearm. (Repealed)</p> <p>549.08 Discharging firearms.</p> <p>549.09 Throwing or shooting missiles.</p> <p>549.10 Possessing replica firearm in school. (Repealed)</p> <p>549.11 Blasting permit.</p> <p>549.12 Defacing identification marks of a firearm; possessing a defaced firearm. (Repealed)</p> <p>549.99 Penalty.</p> |
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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. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than thirty-one cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.
- (f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.
- (g) "Zip-gun" means any of the following:
 - (1) Any firearm of crude and extemporized manufacture;
 - (2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
 - (3) Any industrial tool, signalling device or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.
- (h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.
- (i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.
- (j) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.
- (k) "Dangerous ordnance" means any of the following, except as provided in subsection (l) hereof:
 - (1) Any automatic or sawed-off firearm, zip-gun or ballistic knife;
 - (2) Any explosive device or incendiary device;
 - (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, 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 silencer;
 - (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

- (l) "Dangerous ordnance" does not include any of the following:
- (1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;
 - (2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon unless the firearm is an automatic or sawed-off firearm;
 - (3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;
 - (4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (l)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
 - (5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio or museum piece.
 - (6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C.921(a)(4), as amended, and regulations issued under that Act.
- (m) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks", as defined in Ohio R.C. 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations, including, but not limited to, the provisions of Ohio R.C. 3743.80, and the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82. (ORC 2923.11)

549.02 CARRYING CONCEALED WEAPONS. (REPEALED)

(EDITOR'S NOTE: Former Section 549.02 was repealed by Ordinance 13-66AC CMS.)

549.03 USING WEAPONS WHILE INTOXICATED. (REPEALED)

(EDITOR'S NOTE: Former Section 549.03 was repealed by Ordinance 13-66AC CMS.)

**549.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.
(REPEALED)**

(EDITOR'S NOTE: Former Section 549.04 was repealed by Ordinance 13-66AC CMS.)

549.05 FAILURE TO SECURE DANGEROUS ORDNANCE. (REPEALED)

(EDITOR'S NOTE: Former Section 549.05 was repealed by Ordinance 13-66AC CMS.)

549.06 UNLAWFUL TRANSACTIONS IN WEAPONS. (REPEALED)

(EDITOR'S NOTE: Former Section 549.06 was repealed by Ordinance 13-66AC CMS.)

549.07 UNDERAGE PURCHASE OF FIREARM. (REPEALED)

(EDITOR'S NOTE: Former Section 549.07 was repealed by Ordinance 13-66AC CMS.)

549.08 DISCHARGING FIREARMS.

(a) No person shall discharge any air gun, rifle, shotgun, revolver, pistol or other firearm within the corporate limits of the Municipality.

(b) This section does not apply when firearms are used in self defense, in the discharge of official duty or when otherwise lawfully authorized.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

549.09 THROWING OR SHOOTING MISSILES.

(a) No person shall throw, shoot or propel an arrow, missile, pellet, stone, metal or other similar substance capable of causing physical harm to persons or property, in or on any public place, in or on the property of another, or from any private property into or onto any public place or the property of another. This section does not apply to supervised archery ranges or instruction nor when otherwise lawfully authorized.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

549.10 POSSESSING REPLICA FIREARM IN SCHOOL. (REPEALED)

(EDITOR'S NOTE: Former Section 549.10 was repealed by Ordinance 13-66AC CMS.)

549.11 BLASTING PERMIT.

(a) No person shall blast with dynamite, gunpowder or any other explosive compound within the Municipality unless he/she has first obtained a written permit from the City.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 1005 AC CMS. Passed 1-21-74.)

549.12 DEFACING IDENTIFICATION MARKS OF A FIREARM;

POSSESSING A DEFACED FIREARM. (REPEALED)

(EDITOR'S NOTE: Former Section 549.12 was repealed by Ordinance 13-66AC CMS.)

549.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

(NOTE: The next printed page is page 97.)

TITLE THREE - Public Utilities

- Chap. 909. Utilities Generally.
- Chap. 911. Municipal Water Division.
- Chap. 913. Municipal Light and Power Department.
- Chap. 915. Municipal Wastewater Division.
- Chap. 917. Gas.
- Chap. 919. Termination of Residential Service.

CHAPTER 909 Utilities Generally

- | | | | |
|--------|--|--------|---|
| 909.01 | City owned utilities free to City. | 909.04 | Annexation prior to tapping-in. |
| 909.02 | Assessment of delinquent utility bills. | 909.05 | Security deposit for utility service. |
| 909.03 | City installation of utility lines; connections and cost recovery. | 909.06 | Mutual aid agreement for repairs. |
| | | 909.07 | City to be sole provider for all new customers. |

CROSS REFERENCES

- Water Division - see S.U. & P.S. Ch. 911
- Light and Power Department - see S.U. & P.S. Ch. 913
- Wastewater Division - see S.U. & P.S. Ch. 915

909.01 CITY OWNED UTILITIES FREE TO CITY.

The interdepartmental use of utilities by all City departments will be without charge to the receiving department. (Ord. 777AC CMS. Passed 5-18-71.)

909.02 ASSESSMENT OF DELINQUENT UTILITY BILLS.

(a) The City shall assess a delinquent rate of 10% of the total monthly utility bill for those bills paid after the due date. In addition, the City shall assess a delinquent rate of one percent per month of the total monthly utility bill for those bills outstanding thirty days beyond the due date.

(b) From time to time during each calendar year, the Finance Director shall present to the Law Director for collection, utility accounts that have become delinquent for four months, or more, or which are otherwise deemed to be uncollectable. Such amounts, together with the delinquency rates prescribed under section (a) hereof, may be certified to the County Auditor, by the Law Director, or his or her designee, for collection the same as other taxes and assessments are collected.

(c) All charges for water usage, as provided in Chapter 911, all sewer charges, as provided in Chapter 915, all electric charges, as provided in Chapter 913, and all charges for sanitation services, are assessed against the property to which the service is rendered and are a lien against said property, collectible the same as other liens and taxes, in accordance with subsection (b). Transfer of ownership of property connected to the public water system and sanitary sewer system, shall not relieve the property owner of responsibility for charges assessed against the property.

(d) Any City utility account established and maintained in the name of the tenant, lessee or other person or party for services provided to the premises shall not relieve the property or the owner of the property for liability for such charges.

(e) No person, agent, firm or corporation shall sell, convey, exchange or otherwise transfer any ownership interest in any real property located within the corporate limits of the City, which is supplied with water, sanitary sewer, electric and/or sanitation services by the City, without first furnishing to the transferee duly assigned escrow agent proof of payment of the final bill for such services. If such final bill has not been paid or proof of payment is not readily available, three hundred dollars (\$300.00) shall be held in escrow until such proof of payment has been furnished to the escrow agent.

(f) Any party to a sale, exchange, conveyance or transfer of property, or any such party's agent, may request the Division of Utilities to read the meter(s) at that property. As soon as reasonably possible thereafter, the City will read the meter(s) and render a final bill for all outstanding water, sanitary sewer, electric and sanitation charges.

(g) No person, agent, firm or corporation acting in the capacity of escrow agent in any real estate transaction involving the sale of any real property or interest therein located within the corporate limits of the City, which is serviced or supplied with water, sanitary sewer, electric and/or sanitation services by the City, shall disburse any funds until the provisions of subsection (e) hereof have been met.

(h) Upon good cause shown, the City may waive the assessment described in subsection (a) hereof. (Ord. 14-14AC CMS. Passed 4-7-14.)

909.03 CITY INSTALLATION OF UTILITY LINES; CONNECTIONS AND COST RECOVERY.

(a) In the event the City installs water, sewer and/or sanitary sewer lines in areas not heretofore served with such facilities, or has installed such lines in areas previously, or caused the same to be installed by another agency in any area of the City or within three miles thereof, excluding subdivisions wherein the procedure for installing such utility lines is established by Chapters 1307 to 1319 of the Planning and Zoning Code, the following procedure will govern:

- (1) All such installations shall have the plans and specifications approved by the City Engineer.
- (2) The abutting property owners and other users abutting the property will not be required to pay for a sanitary sewer larger than eight inches in diameter, a storm sewer larger than twelve inches in diameter, or a water line more than six inches in diameter.
- (3) The City will pay for any capacity above the diameters set forth in subparagraph (a)(2) hereof, which are considered normal capacities. (Ord. 846AC CMS. Passed 4-3-72.)
- (4) All property owners within the City or hereinafter annexed to the City where these facilities have been installed, shall within twelve months of the installation or within twelve months of annexation, connect to the sanitary sewer, water line and/or storm sewer. In the case at sanitary sewer lines, Council may extend the twelve month tap-in deadline if a newly annexed property has a County Health Department approved septic tank. However, when the septic tank ceases to function adequately, a tap-in to the City sanitary sewer line must be made. (Ord. 1306AC CMS. Passed 9-6-77.)

CHAPTER 923
Municipal Reservoirs

EDITOR'S NOTE: Use of the Parson Road Reservoir for public fishing purposes is authorized by agreement with the State of Ohio pursuant to Ordinance 244AC CMS, passed March 5, 1962.

923.01 Fishing areas.

CROSS REFERENCES

Pollution of reservoirs - see Ohio R.C. 743.25, 3767.18

State fishing licenses and regulations - see Ohio R.C.

1533.32 et seq.

Malicious injury to reservoir property - see GEN. OFF. 541.04

923.01 FISHING AREAS.

(a) All City-owned reservoirs are hereby reserved for fishing and recreational purposes only, excluding boating and swimming, except for boating in the Parsons Road Reservoir which shall be allowed pursuant to the agreement with the State.

(b) Whoever violates this section as it pertains to boating and swimming is guilty of a minor misdemeanor.

(c) A copy of this section shall be posted in conspicuous places around all Municipal reservoirs in order to apprise the public.
(Ord. 86-45AC CMS. Passed 8-4-86.)

CHAPTER 925

Garbage and Rubbish Collection

EDITOR'S NOTE: Council, by Ordinance 739AC CMS, passed December 7, 1970, authorized Lorain County to include the City of Oberlin in a Garbage and Refuse Disposal District created pursuant to and under authority of Ohio R.C. 343.01 et seq. Council also establishes rate schedules for commercial garbage and rubbish collection, which schedules, because of the frequency of change, are not codified herein.

925.01	Type of refuse collectible. (Repealed)	925.10	Rates.
925.02	Manner of depositing.	925.11	Scavenging of recyclable materials.
925.03	Type and volume of containers.	925.12	Refuse and recycling collection rules.
925.04	Schedule for regular weekly collections. (Repealed)	925.13	Materials prohibited.
925.05	Organics recovery; open burning.	925.14	Temporary dumpsters.
925.06	Residential collection by City.	925.15	Resource Conservation and Recovery Commission.
925.07	Paper to be separated. (Repealed)	925.16	Dumpster service in Central Business District.
925.08	Commercial collection.	925.17	Unauthorized use of dumpster.
925.09	Large trash pick-up.	925.99	Penalty.

CROSS REFERENCES

Collection and disposal of garbage - see Ohio R.C. 715.43, 717.01

Employment of scavengers - see Ohio R.C. 3707.39

Disposal and transportation upon public ways - see Ohio R.C. 3767.20 et seq.

Vehicle dropping, sifting, tracking substances on street - see TRAF. 339.08

Deposit of garbage or refuse - see GEN. OFF. 521.08

Open burning - see FIRE PREV. Ch. 1505

925.01 TYPE OF REFUSE COLLECTIBLE. (REPEALED)

(EDITOR'S NOTE: Section 925.01 was repealed by Ordinance 94-2AC CMS, passed February 22, 1994.)

925.02 MANNER OF DEPOSITING.

Household refuse, including garbage, paper, cardboard, cans and bottles, etc., may be placed in the same container. Garbage should be wrapped or placed in bags before depositing in containers. Yard waste shall not be placed in containers with household refuse.
(Ord. 13-27AC CMS. Passed 5-6-13.)

925.03 TYPE AND VOLUME OF CONTAINERS.

Household refuse shall be placed in suitable containers not exceeding thirty gallons capacity. Weight of containers placed shall not exceed fifty pounds.
(Ord. 13-27AC CMS. Passed 5-6-13.)

925.04 SCHEDULE FOR REGULAR WEEKLY COLLECTIONS. (REPEALED)

(EDITOR'S NOTE: Section 925.04 was repealed by Ordinance 94-2AC CMS, passed February 22, 1994.)

925.05 ORGANICS RECOVERY; OPEN BURNING.

(a) The City may schedule collection of brush and branches and shall provide for annual fall leaf collection, both of which will be without additional fee or cost to the resident.

(b) Leaves may be raked to the curb lawn or gutter edge in the fall season only. At other times, leaves shall be treated as yard waste.

(c) The City will collect bagged yard waste weekly on a fee-for-service basis. Collection must be scheduled in advance and will be available March through December excluding holidays. Yard waste shall be placed in compostable bags not exceeding thirty gallons capacity and shall be placed at the curb no earlier than 12:00 noon of the day preceding the collection.

(d) The City may schedule and provide delivery service for leaves, leaf compost and wood chips according to such policies and procedures adopted by the City. The fees for delivery of materials from the City's Class IV Compost Facility shall be:

Residents	\$35/load
Non-residents	\$40/load

(e) Open burning of refuse or yard waste is prohibited.
(Ord. 13-27AC CMS. Passed 5-6-13.)

925.06 RESIDENTIAL COLLECTION BY CITY.

(a) The City, through its personnel or by contract, shall provide for the collection of garbage, trash, yard waste and recyclables from residential property according to a schedule published by the City.

(b) Such pick-up shall be at curbside or at such location as may be determined by the City and it shall be the obligation of the persons being served to place the garbage and/or trash on the curbside at the specified location at the proper time for such pick-up.

(c) It shall be the obligation of persons being served to place the containers no sooner than 12:00 noon on the day preceding the collection and to remove the containers by 12:00 midnight on the day of collection.

(d) Basic residential service shall entitle a customer to place up to three refuse containers and an unlimited amount of properly prepared recyclable materials for collection.

Owners of multi-family residences containing four or fewer units or of a rooming house may request service in excess of the basic residential service. Such additional service shall be in the form of multiples of the basic unit service and charge.
(Ord. 13-27AC CMS. Passed 5-6-13.)

925.07 PAPER TO BE SEPARATED. (REPEALED)

(EDITOR'S NOTE: Section 925.07 was repealed by Ordinance 94-2AC CMS, passed February 22, 1994.)

925.08 COMMERCIAL COLLECTION.

(a) The City exclusively shall provide for the collection of refuse and trash and recyclable materials at all commercial and industrial establishments, schools, offices, churches, apartment buildings, nursing homes and other institutions. Where the City cannot provide adequate service to a commercial or industrial establishment, as determined by the City, the City Manager shall be authorized to waive Municipal collection and approve the use of a private collection service. All costs associated with the use of such private collection service shall be borne by the customer. All waivers shall be reviewed on an annual basis.

This section shall not be construed as prohibiting the re-use or sale by a commercial or industrial establishment of recyclable materials resulting from the operations of the establishment.

(b) No person shall place any waste into a dumpster except as may be authorized by the party responsible for paying the collection charges thereof.
(Ord. 13-27AC CMS. Passed 5-6-13.)

925.09 LARGE TRASH PICK-UP.

(a) Residents desiring large trash pick-up service shall be required to make an appointment for a pick-up.

(b) Items scheduled for large trash pick-up shall be placed on the curb lawn no sooner than 12:00 noon on the day preceding the collection, and any containers into which large trash has been placed shall be removed from the curb lawn by 12:00 midnight on the day of collection.

(c) The following items shall not be collected through the large trash pick-up service: refuse prohibited elsewhere in this chapter, yard wastes and recyclables, including newspapers, steel and aluminum cans, glass bottles, clear plastic milk and soft drink containers.

(d) Each residential property shall be entitled to one scheduled free large trash pick-up per year of up to two cubic yards. Additional large trash pick-up service shall be charged at the rate of twelve dollars (\$12.00) per cubic yard.

(e) Large trash items placed for collection where a large trash collection has not been scheduled may, at the option of the City, be collected, and the resident or homeowner shall then be billed fifty dollars (\$50.00) or eighteen dollars (\$18.00) per cubic yard, whichever is greater.

(f) Where refuse is greater than two yards, or where the nature of the refuse is such that loading by hand is impractical, the homeowner may be required, at the option of the City, to pay for the use of a temporary dumpster.
(Ord. 13-27AC CMS. Passed 5-6-13.)

925.10 RATES.

(a) Residential Rates.

- (1) Commencing January 1, 2014, a basic residential rate of six dollars (\$6.00) per month shall be charged.
- (2) The basic residential service rate for all bills rendered on or after February 1 of each ensuing twelve-month period, beginning February 1, 2015 shall be determined by the formula:

$$RR = \frac{OM + C}{Q}$$

Where:

- A. "RR" means the basic residential service rate.
- B. "Q" means the number of residential customers as calculated by the Finance office for the calendar year immediately prior to the year in which the rate is to take effect.
- C. "OM" means that portion of the refuse operation and maintenance appropriation attributable to residential collection less the portion of refuse operating levies attributable to residential properties. For purposes of this section, forty-four percent (44%) of the cost of downtown trash receptacles shall be considered to be a cost attributable to residential collection.
- D. "C" means capital expense and reserve appropriation attributable to the residential collection.

(b) Commercial Rates.

- (1) Commencing August 1, 2009, commercial refuse rates shall be charged as follows:

<u>Dumpster Size</u>	<u>Per Service</u>
1	\$5.85
2	\$11.10
3	\$15.30
4	\$18.60
6	\$26.10
8	\$32.40

- (2) Customers whose service is less than one cubic yard and where a dumpster is not required shall pay fifteen dollars (\$15.00) per month. Customers with intermittent service requirements (on-call service) shall pay a twenty-five dollar (\$25.00) per month demurrage fee in addition to the dumpster charge for each service.
- (3) The commercial rates shall be increased upon the recommendation of the Public Works Director, the City Manager and the Finance Director with the approval of Oberlin City Council.
(Ord. 14-16AC CMS. Passed 4-21-14.)

925.11 SCAVENGING OF RECYCLABLE MATERIALS.

Scavenging of recyclable materials placed for collection shall be prohibited. Recyclable material shall remain the property of the resident, business or industry collecting said material until such time as the material is placed at the curb or at another location for collection by the City. At the time the materials are placed by the resident, business or industry for collection by the City, said materials become the property of the City.
(Ord. 13-27AC CMS. Passed 5-6-13.)

925.12 REFUSE AND RECYCLING COLLECTION RULES.

The City Manager is authorized to promulgate and publish such rules as are necessary for the efficient and economical collection of refuse, recyclable materials and yard waste.
(Ord. 13-27AC CMS. Passed 5-6-13.)

925.13 MATERIALS PROHIBITED.

The following materials shall not be included or otherwise introduced into residential or commercial refuse: hazardous or infectious wastes, tires, storage batteries, refrigerators or other appliances still containing freon or in which the freon was not removed by a person licensed to do so, brush, grass clippings, or other yard waste, waste oil, bricks, rocks or concrete (other than a nominal amount incidental to other refuse), dirt or any material prohibited by State or Federal law from being landfilled.
(Ord. 13-27AC CMS. Passed 5-6-13.)

925.14 TEMPORARY DUMPSTERS.

(a) Temporary six-yard dumpsters may be requested by business, industrial or residential customers. Temporary dumpsters will be provided subject to availability and provided that the City can deliver, service and remove the dumpster without damage to trees, buildings and overhead wires. Dumpsters are full when the material reaches the top sill. Do not overload dumpsters. Refuse in excess of 6 yards will be billed at the rate of twelve dollars (\$12.00) per cubic yard.

(b) Temporary dumpsters set at a customer's site are limited to a three-week maximum. The dumpster will be picked up by the City at the end of the prescribed time.

(c) Persons ordering a temporary dumpster are required to pay in advance for the dumpster.

(d) Charges for temporary dumpsters shall be:

	Charges
Delivery of a dumpster for a one week period and collection	\$75.00
Additional pickups, each	\$37.50
In addition to the pickup charge above, there shall be a weekly demurrage fee	\$30.00
Construction Debris Surcharge (per service)	\$15.00

(e) The City will make a single attempt to delivery the dumpster. If the dumpster cannot be set due to actions of the customer (e.g., cars in the way) a twenty-dollar (\$20.00) fee will be charged with balance of the prepayment refunded to the customer.
(Ord. 13-27AC CMS. Passed 5-6-13.)

925.15 RESOURCE CONSERVATION AND RECOVERY COMMISSION.

The Resource Conservation and Recovery Commission shall advise Council regarding the City's refuse, recyclable materials, and yard waste collection programs, including the use, reuse, and procurement of sustainably-produced goods.
(Ord. 13-27AC CMS. Passed 5-6-13.)

925.16 DUMPSTER SERVICE IN CENTRAL BUSINESS DISTRICT.

(a) The City shall make available sufficient dumpsters to provide refuse service in the downtown district for businesses, offices, and apartments that have not individually contracted for refuse service.

(b) Businesses, offices and apartment units making use of these dumpsters shall be charged as follows:

Apartments	Twice the basic residential service rate.
Small retail and small professional	Commercial rate for a 1-yard dumpster serviced once per week.
Medium professional services (office with more than 3 persons)	Commercial rate for a 2-yard dumpster serviced once per week.
Medium retail	Commercial rate for a 3-yard dumpster serviced once per week.
Large retail	Commercial rate for a 4-yard dumpster serviced once per week.
Restaurants	Commercial rate for a 6-yard dumpster serviced once per week.
Restaurants with bar	Commercial rate for an 8-yard dumpster serviced once per week.

(Ord. 13-27AC CMS. Passed 5-6-13.)

925.17 UNAUTHORIZED USE OF DUMPSTER.

(a) No person shall place any waste into a dumpster except as may be authorized by the party responsible for paying the collection charges thereof.

(b) For dumpsters placed pursuant to Section 925.16, no person shall place any waste in any such dumpster other than waste generated by an establishment located in the Central Business District and being charged for such service.

(Ord. 13-27AC CMS. Passed 5-6-13.)

925.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be fined not more than one hundred dollars (\$100.00).

(Ord. 13-27AC CMS. Passed 5-6-13.)

CHAPTER 927
City Parks and Recreation Areas

927.00	Definitions.	927.15	Minors.
927.01	Advertisements; signs.	927.16	Noise.
927.02	Alcohol, drugs, narcotics, intoxicants and controlled substances.	927.17	Noxious material and sewage dumping.
927.03	Animals.	927.18	Powered model toys.
927.04	Camping.	927.19	Refuse.
927.05	Disorderly conduct.	927.20	Reservations.
927.06	Fireworks.	927.21	Soliciting and concessioneering.
927.07	Firearms and weapons.	927.22	Traffic and parking.
927.08	Fires.	927.23	Trespassing.
927.09	Fishing.	927.24	Vandalism.
927.10	Gambling.	927.25	Waters, use of.
927.11	Hindering of employees.	927.26	Enforcement; penalty.
927.12	Hours of operation.	927.27	Park rules and regulations.
927.13	Hunting and trapping.	927.28	Liability.
927.14	Loitering.	927.29	Smoking and tobacco.

CROSS REFERENCES

Land appropriation for parks - see Ohio R.C. 715.21, 719.01
 Playgrounds - see Ohio R.C. 755.12 et seq.
 Vandalism - see GEN. OFF. 541.04
 Trespass - see GEN. OFF. 541.05

927.00 DEFINITIONS.

- (a) "Major Park" means any one of the following named public parks:
- (1) Morgan Street Reservoir
 - (2) James F. "Bill" Long Nature Preserve
 - (3) Oberlin Roadside Park
 - (4) Parsons Road Reservoir
 - (5) Hamilton Recreation Complex

(b) "Minor Park" means any one of the following named public parks:

- (1) Depot Park
- (2) Martin Luther King, Jr. Memorial Park
- (3) Wright Memorial Park
- (4) Legion Field
- (5) Don J. Pease Memorial Bike Trail
- (6) Park Street Park (Pleasant Street Park)
- (7) Spring Street Park
- (8) East College Street Project Plaza.

(Ord. 11-70 AC CMS. Passed 10-17-11.)

927.01 ADVERTISEMENTS; SIGNS.

No person shall post any sign, handbill, pamphlet, circular, notice, emblem or advertisement upon any structure, tree or thing on the park premises.

(Ord. 98-80AC CMS. Passed 10-5-98.)

927.02 ALCOHOL, DRUGS, NARCOTICS, INTOXICANTS AND CONTROLLED SUBSTANCES.

No person shall transport, bring within, possess, distribute, sell, give away, ingest or be under the influence of alcohol, illegal drugs, narcotics, intoxicants or other controlled substances at any time in or near any park proper. Violators will be prosecuted to the fullest extent possible.

(Ord. 98-57AC CMS. Passed 9-8-98.)

927.03 ANIMALS.

No person shall bring or allow to be loose any animal in the parks, unless upon a leash not more than eight feet in length, including retractable leashes. Pets must be attended and controlled at all times, and are prohibited in playground areas. Any animal found on park property running at large may be impounded. Dog training is not permitted. It is unlawful for any person to bring a dog into a park unless it has been properly licensed. No person shall permit a pet to dig up or otherwise damage park property, nor to defecate without said person immediately removing all feces deposited by the animal, and disposing of same in a sanitary manner. It shall not be unlawful for a seeing-eye dog to be in any park when accompanied by a sight impaired person. No person shall attempt to hunt, trap, catch, wound, kill, or treat cruelly any bird or animal, or molest or rob the nest of any bird or animal located in any park. No person shall abandon, dispose of or otherwise release any animal or fish into a park.

(Ord. 98-57AC CMS. Passed 9-8-98.)

927.04 CAMPING.

No person shall place, erect, or use any tent, camper, travel trailer, motor home, sleeping bag, hammock or other shelter, or otherwise camp or sleep in any park.

(Ord. 98-57AC CMS. Passed 9-8-98.)

927.05 DISORDERLY CONDUCT.

No person shall make or assist in making any improper noise, riot, disturbance or breach of the peace in any park, or be guilty of any disorderly conduct. No person shall collect with other persons, in bodies or crowds, for unlawful purposes, or for any purpose to the annoyance, obstruction or disturbance of other persons. No person shall utter any profane, obscene or abusive language or ethnic slur, nor make any indecent, threatening or obscene advances or gestures while within a park. No person shall take, or attempt to take any immoral, improper or indecent liberties with any child or adult of either sex in any park. No person shall appear in a park in a state of nudity, or perform or engage in sexual contact or conduct, nor make any indecent exposure of his or her person, nor solicit to engage in sexual activity for hire.

Boisterous, excessively loud, immoral or indecent behavior and fighting are prohibited. No person shall engage in any activity in a manner so as to endanger, injure, or damage persons or property in the parks. Climbing trees, rocks and park structures (with the exception of playground equipment), is not permitted, nor is repelling from such.
(Ord. 98-57AC CMS. Passed 9-8-98.)

927.06 FIREWORKS.

No person shall carry, discharge or cause to be exploded any fireworks or other explosive substances in the parks, except City-sponsored events or otherwise by written permission of the City Manager.
(Ord. 98-57AC CMS. Passed 9-8-98.)

927.07 FIREARMS AND WEAPONS.

The unlawful possession, use or discharge of any type of a firearm or the possession of any knife, switchblade, bow and arrow, air gun, paintball gun, B-B gun, spring-operated gun, slingshot, or other offensive weapon within a City park or recreation area is strictly forbidden. The throwing of stones or the launching of other harmful projectiles within a City park or recreation area is forbidden. The term "firearm" as used in this section shall have the same meaning as in Ohio R.C. 2923.11.
(Ord. 13-44AC CMS. Passed 9-16-13.)

927.08 FIRES.

No person shall light or make use of any fire in the parks, except such portions thereof as may be designated by the City for the cooking of food, such as in a grill. Every fire, ember or burning briquettes shall be under the continuous care and direction of a competent person from the time the fire is kindled until it is completely extinguished. No person shall throw away or discard any match, cigarette, cigar, ember or briquettes or other burning object which has not been entirely extinguished before being thrown away or discarded in receptacles or areas provided. Dumping hot ashes or fire into the grass is prohibited. No portable stoves or grills shall be permitted in shelters, park buildings or on combustible picnic tables.
(Ord. 98-57AC CMS. Passed 9-8-98.)

927.09 FISHING.

Fishing in park waters is permitted and is subject to the statutes of the State of Ohio, except that the use of unattended hooks, traps, gigs, bows and arrows, fishing between the hours that the park is closed, or in areas posted by the City as no fishing, is prohibited. Ice fishing is not permitted. (Ord. 98-57AC CMS. Passed 9-8-98.)

927.10 GAMBLING.

No person shall operate or participate in gambling, play at or abet any game of chance or use any gambling device in any park for money or other thing of value.
(Ord. 98-57AC CMS. Passed 9-8-98.)

927.11 HINDERING OF EMPLOYEES.

No person shall interfere with, or in any manner hinder any employee or agent of the City while engaged in constructing, repairing, patrolling or caring for any park property.
(Ord. 98-57AC CMS. Passed 9-8-98.)

927.12 HOURS OF OPERATION.

No person shall be permitted to remain, stop or park within the confines of any major park thirty (30) minutes after sunset and (30) minutes before sunrise, except in emergency. No person shall leave any vehicle within the confines of any park once closed. If so, the vehicle shall be subject to a parking fine and removal at the owner's expense.
(Ord. 11-53 AC CMS. Passed 7-5-11.)

927.13 HUNTING AND TRAPPING.

No person shall within the confines of a park hunt, pursue with animals, with electric or mechanical devices, trap or in any other way molest any bird or animal. No person shall use spotlights or headlights of any kind to illuminate wildlife within the confines of any park, except in cases where the purpose for doing so is to avoid injury to persons, property or wildlife. Personnel authorized by the City to do so may trap animals for the purpose of re-locating them.
(Ord. 98-57AC CMS. Passed 9-8-98.)

927.14 LOITERING.

No person or group of persons shall loiter in or near a motor vehicle or vehicles within or adjacent to any park. No person or group of persons shall commit upon any public sidewalk, entrance or exit to any public place in the park any act or thing which is an obstruction or interference to the free and lawfully conducted use thereof by anyone.
(Ord. 98-57AC CMS. Passed 9-8-98.)

927.15 MINORS.

The parent or legal guardian of a minor (defined as a person under the age of eighteen years), who resides with such parent or legal guardian shall be liable for any fine or condition of restitution or reparation imposed by a court upon a minor for violation of this chapter; provided that the minor has not paid the fine or made restitution or reparation within the time ordered by the court; and further provided, that said parent or legal guardian has been served with summons or notice to appear in the original cause and all proceedings thereafter as provided by law.
(Ord. 98-57AC CMS. Passed 9-8-98.)

927.16 NOISE.

Except as a warning for danger, no person, or animal under a person's control, shall make an unusually loud or unnecessary noise, or which in any manner annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within and immediately adjacent to any park. No person shall, in or in proximity to a park, play any radio, stereo, boom box, musical instrument, tape player, etc. at a volume that is annoying to others.
(Ord. 98-57AC CMS. Passed 9-8-98.)

927.17 NOXIOUS MATERIAL AND SEWAGE DUMPING.

No person shall, either within or adjacent to any park, place or permit to be placed into the air, stream, reservoir, pond, water fountain, ditch or drain that flows into or through park lands, any noxious material or sewage which may render park waters or land harmful to public health, or to animal, vegetative or aquatic life, or which may prevent, limit or interfere with the use of such waters for domestic or agricultural purposes, or which may lessen to an unreasonable degree the use and enjoyment of the park.
(Ord. 98-57AC CMS. Passed 9-8-98.)

927.27 PARK RULES AND REGULATIONS.

Copies of park rules and regulations shall be on file in the offices of the City Recreation Department, City Clerk and the Police Department. These rules and regulations shall be published in booklet form and made available to the public upon request. It shall be the responsibility of any individual entering a City park to be aware of and obey all park rules and regulations. Failure to comply with park rules, posted or not, may result in the issuance of a citation(s), expulsion from park grounds, or arrest. The City reserves the right to sponsor special events or to grant written permission to individuals or organizations for special events, which may result in some temporary exceptions or waivers of certain park rules, as permitted and specified by the City at the City's discretion.

(Ord. 98-57. Passed 9-8-98.)

927.28 LIABILITY.

The City of Oberlin is not liable for injuries, lost possessions or property damage which may occur to visitors while on park premises. Use of City parks is at a visitor's own risk.

(Ord. 98-57. Passed 9-8-98.)

927.29 SMOKING AND TOBACCO.

(a) Smoking, as defined in Chapter 506, of the Codified Ordinances, and the use of smokeless tobacco products is hereby prohibited in any areas of any Oberlin Park, as defined in Section 927.00, as may be established by the City Manager as non-smoking and tobacco-free zones.

- (1) No person found to be smoking or using smokeless tobacco products in such designated non-smoking and tobacco-free zones in a park shall fail to immediately cease said activity when requested to do so by City staff, a Police Officer, or a person charged with the management, operation or care of any City-owned park, including any baseball or softball umpire or soccer official.
- (2) Should a person found to be smoking or using smokeless tobacco products in a non-smoking and tobacco free zone in a park not immediately cease said activity when requested to do so, as described in subsection (a)(1) hereof, he or she shall be guilty of a minor misdemeanor.
- (3) Persons who repeatedly violate this section, may be permanently banned from City Parks.
- (4) Lack of intent to violate a provision of this chapter shall not be a defense to a violation.

(Ord. 14-22AC CMS. Passed 7-7-14.)

(b) At least one sign informing the public of the ban shall be placed at the entrance of each such non-smoking and tobacco-free zone established by the City Manager. Notice shall also be placed at such location(s) within each park designated for notices and information, and shall be included in appropriate forms, documents and other materials provided to residents and others when reserving park facilities or space. (Ord. 10-25AC CMS. Passed 5-3-10.)

TITLE THREE - Administration

Chap. 1111. Permit Fees.

Chap. 1113. Responsibility for Permit.

Chap. 1115. Contractor Registration.

CHAPTER 1111 Permit Fees

1111.01	General residential fee schedule.	1111.03	Plumbing permit fees.
1111.02	Refunds for permit revocation prohibited; commencement and completion of work.	1111.04	Electrical permit fees.
		1111.05	Power permit fees.
		1111.06	Ohio Building Code fees.

CROSS REFERENCES

Excavation permits - see S. & P. S. Ch. 903

Plumbing permits required - see BLDG. 1127.23 et seq.

Electrical permits required - see BLDG. 1141.04 et seq.

Permit deposit for moving structures - see BLDG. 1183.02

Commercial signs - see P. & Z. Ch. 1351

1111.01 GENERAL RESIDENTIAL FEE SCHEDULE.

The fees listed shall prevail for permits required for construction, alterations, repairs of one, two and three-family dwellings including accessory structures.

(a) REGISTRATION OF CONTRACTORS.	
(1) Initial Registration Fee	\$100.00
(2) Initial - Each Additional Trade/Registration (with a cost of a maximum for 3 additional)*	\$75.00 each
(3) Annual Renewal Registration Fee (Prior to March 1 st , if registered the previous year)	\$75.00
(4) Renewal - Each Additional Trade/Registration (with a cost of a maximum for 3 additional)*	\$50.00 each
* Separate registrations for each type of work indicated on the application. Insurance certification may be used for multiple trades/registration. Maximum cost with additional registrations - initial + 225.00/renewal + 150.00.	

(b) ADMINISTRATION FEE.	\$50.00
(c) ZONING.	
(1) All Structures, additions, decks, pools, etc.	\$50.00
(d) PLAN REVIEW.	
(1) Single Family Dwelling (New)	\$100.00 plus \$4.00/100 s.f.
(2) Multifamily (One/Two/Three Family Dwelling) (New)	\$150.00 plus \$4.00/100 s.f.
(3) Additions, Remodeling, Alteration, Repair	\$50.00 plus \$4.00/100 s.f.
(4) Duplicate Plans (same house, same remodel, etc.)	50% of the above cost
(5) Detached Garage, Pole Buildings, Accessory Structure (200 s.f. and over)	\$50.00 plus \$4.00/100 s.f.
(6) Miscellaneous (All other items for which plans are submitted but not listed)	\$50.00
(7) Suppression System	\$75.00
(e) BUILDING PERMITS.	
(1) Single Family Dwelling (New)	\$175.00 plus \$10.00/100 s.f.
(2) Single Family Dwelling (Addition, Alteration, Remodel)	\$100.00 plus \$10.00/100 s.f.
(3) Multifamily (One, Two, Three Family Dwelling) (New)	\$200.00 plus \$10.00/100 s.f.
(4) Multifamily (One, Two, Three Family) Addition, Alteration, Remodel	\$100.00 plus \$10.00/100 s.f.
(5) Detached Garage, Pole Buildings, Accessory Structure (200 s.f. and over)	\$50.00 plus \$10.00/100 s.f.
(6) Detached Garage, Pole Buildings, Accessory Structure (200 s.f. and over) addition, alteration, remodel	\$50.00 plus \$10.00/100 s.f.
(f) MISCELLANEOUS PERMITS.	
(1) Deck, Gazebo, Pergola, Shed	\$25.00 plus \$4.00/100 s.f.
(2) Porch, Windows, Doors, Siding, Gutters, Trim, Insulation	\$50.00 each
(3) Roof (added layer or remove and replace) Roof Repair (approx. 1 square)	\$50.00 NC
(4) Foundation - repair/replace	\$80.00 per side

(f) MISCELLANEOUS PERMITS. (Cont.)	
(5) Waterproofing/Water Control	\$65.00
(6) Driveway/Sidewalks/Patios (NEW)	\$50.00 each
(7) Driveway/sidewalks/patios (REPLACE)	\$50.00 each
(8) Swimming Pool (above ground), includes electric permit	\$75.00
(9) Swimming Pool (in ground), includes electric and plumbing (NOT included - Pool Heaters, these are separate)	\$150.00
(10) Hot Tubs/Spas	\$50.00
(11) Fence	\$50.00
(12) Fire Place (insert/free standing/stove)	\$50.00
(13) Fire Place (masonry)	\$65.00
(14) Solar - Hot Water/Electric/Air (heat)	\$100.00 each
(15) Misc. Concrete (Replacement Garage/Basement Floors)	\$50.00 each
(16) POD, Temporary Storage Shed/trailer	\$50.00
(17) Construction Dumpster	\$50.00
(g) ELECTRICAL PERMITS.	
(1) Single Family Dwelling (New)	\$150.00 plus \$5.00/100 s.f.
(2) Single Family Dwelling (Addition/Alteration/Remodel)	\$75.00 plus \$5.00/100 s.f.
(3) One, Two, Three Family Dwelling (New)	\$200.00 plus \$5.00/100 s.f.
(4) One, Two, Three Family Dwelling (Addition/Alteration/ Remodel)	\$100.00 plus \$5.00/100 s.f.
(5) Service Change/Upgrade/Repair	\$65.00
(6) Storm Repair (service)	N/C
(7) Panel Upgrade/Replacement	\$50.00
(8) Accessory Buildings (Detached Garage, Shed, Etc.)	\$50.00 plus \$5.00/100 s.f.
(9) Sump Pump/Sewage Ejector (New Power Source)	\$50.00
(10) Miscellaneous - added lighting/outlets (per 5 or less)	\$50.00

(g) ELECTRICAL PERMITS. (Cont.)	
(11) Generator Portable Connection	\$50.00
Permanent Connection	\$100.00
(12) Solar System	\$100.00
(13) Electric Generating Wind Turbines - Maximum 4.5 KW	\$100.00 each
(14) Electric Generating Wind Turbines - over 4.5 KW	\$175.00 each
(15) DC to AC Power Inverters - Upgrade/Replacement	\$65.00 each
(16) Temporary Electric Service	\$50.00
(h) PLUMBING PERMITS.	
(1) Single Family Dwelling (New)	\$100.00 plus \$5.00/100 s.f.
(2) Single Family Dwelling (Addition/Alteration/Remodel)	\$75.00 plus \$5.00/100 s.f.
(3) One, Two, Three Family Dwelling (New)	\$150.00 plus \$5.00/100 s.f.
(4) One, Two, Three Family Dwelling (Addition/Alteration/Remodel)	\$100.00 plus \$5.00/100 s.f.
(5) Miscellaneous Replacement - Toilets/ Sinks/Tubs/ Dishwasher	\$50.00 each
(6) Hot Water Tank (replacement)	\$50.00 each
(7) Sump/Ejector Pumps (New or Replace)	\$65.00 each
(8) <u>Repair</u> Interior Gas, Water, Sewer Lines	\$50.00 each
(9) <u>Replace</u> Interior Gas, Water, Sewer Line (10' plus)	\$50.00 each
(10) Repair/Replace Exterior Gas, Water, Storm or Sanitary Sewer	\$50.00 each
(11) Lawn Sprinkler System (includes Backflow Device)	\$65.00
(12) Hydronic System (New/Replace)	\$100.00
(13) Hydronic Boiler (Replace)	\$50.00
(14) Inground Pool Heaters	\$65.00
(15) Separate Fire Suppression Line	\$50.00
(16) Suppression System	\$50.00 plus \$5.00/Head
(17) Radon System	\$50.00

(i) HEATING PERMITS.	
(1) Standard Furnace (New/Replace)	\$55.00 each
(2) Combination Unit (Heat Pump) (New/Replace)	\$90.00 each
(3) Hydronic (New/Replace)	SEE PLUMBING
(4) Geothermal System (New)	\$200.00
(5) Geothermal System (Replace)	\$150.00
(6) Geothermal Loop System (Replace)	\$75.00
(7) Space Heating - Overhead/Duct System/In Wall/ Baseboard (New/Replace)	\$55.00 each
(8) Duct Work (New)	\$100.00 each furnace
(9) Duct Work (Addition/Alteration/Remodel)	\$50.00
(10) Make-up Air (Conditioned Air) (New/Replace)	\$50.00
(11) Central Air Conditioning (New/Replace)	\$50.00 each
(12) Chimney Liner	\$50.00
(j) RAZING OR DEMOLITION.	
(1) 100 s.f. or Less	N/C
(2) 101 s.f. - 500 s.f.	\$50.00 *
(3) 501 s.f. - 1,000 s.f.	\$75.00 *
(4) 1,001 s.f. - Plus	\$150.00 *
* Refundable Bond, Any Building connected to Utilities requires a bond. (Damage not corrected, will reduce refund, after City correction) \$5,000	
(k) MOVING STRUCTURE.	
(1) Adjoining Lot	\$200.00
(2) Directly Across a Public Road	\$800.00 *
(3) Elsewhere in or out of City	\$1,500 *
* Refundable Bond (any payment for misc. costs will reduce refund) \$5,000	
(l) RESIDENTIAL RE-INSPECTION FEE.	
At the discretion of the Building Official Must be paid before occupancy	\$50.00

(m) OCCUPANCY PERMIT.	
New, Addition	\$50.00
(n) PENALTY.	
Penalty for starting work without first obtaining required Permit or Required Contractor/Registration	Permit Fee/ Registration PLUS 300%

NOTE:

1. All fees based on 100 square footage (s.f.) and shall be rounded up and based on 100 square foot increments.
2. Living space defined as all areas under roof, on each story, including basements, attached garages and porches.
3. 1% BBS FEE will be added to Permit Fees.

(Ord. 14-19AC CMS. Passed 6-16-14.)

1111.02 REFUNDS FOR PERMIT REVOCATION PROHIBITED; COMMENCEMENT AND COMPLETION OF WORK.

There shall be no refunds of any fee in the event a permit is cancelled or revoked. Work authorized by any permit issued under this chapter shall be commenced within six months from the date of issuance of such permit or such permit shall be void. Such work, when once commenced, shall be completed without unnecessary delay.
(Ord. 70AC CMS. Passed 5-19-58.)

1111.03 PLUMBING PERMIT FEES.

The fee for a plumbing permit shall be paid, based on the following computations:

- (a) New installations or additions to existing system in such amount as provided by ordinance. If wiring is required a separate electrical permit is to be obtained.
- (b) Repair or replacement of fixtures, soil, or waste line and hot water heaters, in such amount as provided by ordinance.
(Ord. 1733AC CMS. Passed 12-5-83.)
- (c) Fixtures moved more than four feet from their original location shall be classified as installation of new fixtures.
- (d) Permit for sewer tap and street opening, as provided in Part Nine - Streets, Utilities and Public Services Code, Chapter 903 and Section 915.06.

1111.04 ELECTRICAL PERMIT FEES.

Electrical permit fees for the following classifications are established by separate ordinance.

- (a) New installations.
- (b) Additions to existing system.
- (c) Service charge from existing system three-wire and from existing system four-wire.
- (d) For each reinspection made necessary by incompetent, incomplete or negligent work, there shall be a penalty fee payable by the individual issued the original permit. (Ord. 1047AC CMS. Passed 6-17-74.)

1111.05 POWER PERMIT FEES.

Power permit fees for the following classifications are established by separate ordinance:

- (a) For each electrical appliance installed and shall include but is not limited to the following: air conditioners, motors up to 10 HP, electric heaters, hot water heaters, clothes dryers, ranges and meter openings.
- (b) Temporary service for construction.
- (c) Temporary service pending final.
(Ord. 1047AC CMS. Passed 6-17-74.)

1111.06 OHIO BUILDING CODE FEES.

PERMIT	PROPOSED FEE
Building permit	\$300.00 \$9.50 per s.f.
Electric permit	\$300.00 \$5.75 per s.f.
Plumbing permit	\$300.00 \$5.75 per s.f.
Mechanical permit	\$300.00
Sprinkler/fire alarm/hood	\$300.00 \$5.75 per s.f.
Roof	\$150.00 \$4.50 per s.f.
Plans examination	\$110.00 per hr.
Re-inspection fee	\$75.00
Certificate of occupancy	\$50.00

(Ord. 11-07AC CMS. Passed 2-22-11.)

CHAPTER 1113
Responsibility for Permit

- | | |
|---|---|
| <p>1113.01 Permit required prior to commencement of work.</p> | <p>1113.02 Owner to obtain, contractor to inspect permit.</p> <p>1113.99 Penalty.</p> |
|---|---|

CROSS REFERENCES

Permit fees - see BLDG. Ch. 1111
 Plumbing permits required - see BLDG. 1127.23 et seq.
 Electrical permits required - see BLDG. 1141.04 et seq.
 Signs - see P. & Z. Ch. 1351

1113.01 PERMIT REQUIRED PRIOR TO COMMENCEMENT OF WORK.

All permits and certificates required under the provisions of the Codified Ordinances, or any supplemental ordinances thereto, for the construction, remodeling, demolishing or razing of a building or structure shall be secured prior to commencement of such work.
 (Ord. 329AC CMS. Passed 11-18-63.)

1113.02 OWNER TO OBTAIN, CONTRACTOR TO INSPECT PERMIT.

The owner of the property upon which such construction, razing or demolition is to be accomplished shall be responsible for securing the necessary permits or certificates, and no contractor or agent of the owner shall commence any construction, remodeling or razing without inspecting the permit or certificate for such work.
 (Ord. 329AC CMS. Passed 11-18-63.)

1113.99 PENALTY.

Any person, firm or corporation who commences the construction, remodeling or razing of a structure or building prior to the issuance of a permit or certificate, or who fails to secure a permit or certificate as required under the ordinances of the City, shall be fined not more than one hundred dollars (\$100.00).

CHAPTER 1185 Fair Housing Practices

1185.01	Definitions.	1185.04	Other remedies.
1185.02	Prohibited acts.	1185.99	Penalty.
1185.03	Enforcement procedure.		

CROSS REFERENCES

Fair employment practices - see Ohio R.C. Ch. 4112
Human Relations Commission - see ADM. Ch. 149
Compliance by developers - see P. & Z. 1338.04(b)
Interfering with civil rights - see GEN. OFF. 525.13

1185.01 DEFINITIONS.

As used in this chapter, unless a different meaning clearly appears from the context, the following terms shall have the meanings described in this section:

- (a) "Discrimination" or "discriminate" means any difference in treatment in the sale, lease, rental or financing of dwelling units.
- (b) "Dwelling unit" means:
 - (1) A single room, suite of rooms or an apartment or a dwelling occupied or intended for occupancy as separate living quarters by an individual, family or group of individuals living together; or
 - (2) A parcel of real property or a lot available for the construction of one or more dwelling units.
- (c) "Lending institution" means any persons, as defined in this section, regularly engaged in the business of lending money or guaranteeing loans or procuring lending money or the guarantee of loans.
- (d) "Owner" means the lessee, sublessee, assignee, managing agent or other person having the right of ownership or possession of, or the right to sell, rent or lease any dwelling unit.
- (e) "Person" means an association, partnership or corporation, as well as a natural person. "Person" as applied to partnerships or other associations, includes their members and as applied to corporations, includes those officers having control of any dwelling unit falling within this chapter.
- (f) "Agent" means a real estate broker, real estate salesman or agent and these terms mean any natural person, partnership, association or corporation, who for a fee or other valuable consideration sells, purchases, exchanges or rents or negotiates or offers or attempts to negotiate the sale, purchase, exchange or rental of the real estate property or holds himself out as engaged in the business of selling, purchasing, exchanging or renting the real property.
(Ord. 88-70AC CMS. Passed 10-17-88.)

- (g) "Handicap" means, with respect to a person:
 - (1) A physical or mental impairment which substantially limits one or more of such person's major life activities.
 - (2) A record of having such an impairment, or
 - (3) Being regarded as having such an impairment, but "handicap" does not include current, illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)).
- (h) "Familial status" means one or more individuals (who have not attained the age of eighteen years) being domiciled with:
 - (1) A parent or another person having legal custody of such individual or individuals; or
 - (2) The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years.
- (i) "Sexual orientation" means having an orientation for or being identified as having an orientation for heterosexuality, bisexuality or homosexuality.
(Ord. 91-32AC CMS. Passed 6-17-91.)
- (j) "Gender identity" means a person's own understanding of themselves in terms of gender categories. This can include refusing to label oneself with a gender. Gender identity does not cause or equal sexual orientation.
- (k) "Gender expression" refers to the way in which a person's behavior communicates their gender identity or that others interpret as meaning something about their gender identity. (Ord. 12-35 AC CMS. Passed 5-21-12.)

1185.02 PROHIBITED ACTS.

It shall be an unlawful housing practice for any agent, owner or person to:

- (a) Refuse to sell, transfer, assign, rent, lease, sublease or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations or otherwise deny or make unavailable housing accommodations because of the race, color, religion, sex, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), gender identity or expression, ancestry, handicap, familial status or national origin of any prospective owner, occupant or user of the housing;
- (b) Represent to any person that housing is not available for inspection, sale or rental, when in fact it is available, because of the race, color, religion, sex, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), gender identity or expression, ancestry, handicap, familial status or national origin of any prospective owner, occupant or user of the housing;
- (c) Refuse to lend money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or, maintenance of housing or otherwise withhold financing of housing from any person because of the race, color, religion, sex, sexual orientation, (which shall not include persons whose sexual orientation involves minor children as the sex object), gender identity or expression, ancestry, handicap, familial status or

- (m) Refuse to sell, transfer, assign, rent, lease, sublease, finance or otherwise deny or withhold a burial lot from any person because of the race, color, sex, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), age, gender identity or expression, ancestry, handicap, familial status or national origin of any prospective owner or user of such lot.
- (n) For any person to discriminate in any manner against any other person because that person has opposed any unlawful housing practice defined in this section or because that person has made a charge, testified, assisted or participated in any manner in any investigation, proceeding or hearing under this chapter.
- (o) For any person to aid, abet, incite, compel or coerce the doing of any act declared by this section to be an unlawful housing practice, or to obstruct or prevent any person from complying with this section or any order issued thereunder, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful housing practice.
- (p) Nothing set forth herein shall bar any religious or denominational institution or organization, or any nonprofit charitable or educational organization that is operated, supervised or controlled by or in connection with a religious organization, from limiting the sale, rental or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference in the sale, rental or occupancy of such a dwelling or persons of the same religion, unless membership in the religion is restricted on account of race, color or national origin. Further, nothing in this section shall bar any bona fide private or fraternal organization which, incidental to its primary purpose, owns or operates lodging for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.
- (q) Nothing in this section shall be construed to require any person selling or renting property to modify such property in any way or to exercise a higher degree of care for a person having a handicap, nor shall it be construed to relieve any handicapped person of any obligation generally imposed on all persons regardless of handicap in a written lease, rental agreement or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations of the lease, agreement or contract.
(Ord. 12-35 AC CMS. Passed 5-21-12.)

1185.03 ENFORCEMENT PROCEDURE.

Aggrieved individuals may enforce the rights granted by Section 1185.02 by pursuing any or all of the following remedies:

- (a) Filing a civil action in the Court of Common Pleas within 180 days after the alleged unlawful housing practice occurred.
 - (1) If an unlawful housing practice is about to occur, the court may order any affirmative action it considers appropriate, including a permanent or temporary injunction or temporary restraining order.
 - (2) If the court finds that an unlawful housing practice has occurred, the court shall award to the plaintiff actual damages and reasonable attorney's fees and court costs, and may grant such relief as it considers appropriate, including a permanent or temporary injunction, temporary restraining order or other order, and punitive damages of not more than five thousand dollars (\$5,000).
 - (3) Any action brought pursuant to this section shall be heard and determined as expeditiously as possible.
- (b) Filing a complaint in writing with the City Human Relations Commission charging a violation of Section 1185.02. Upon the filing of such a complaint, the Commission shall investigate same and attempt to informally mediate the complaint. If the complaint cannot be mediated to the satisfaction of the complainant and alleged violator, the Commission shall then provide all materials concerning their file relative to the matter to the City Prosecutor. Upon receipt of the file, the City Prosecutor shall review same and conduct his/her own investigation concerning such charge. Upon being satisfied that it is probable that an unlawful housing practice occurred, the Prosecutor shall file a criminal charge concerning the matter.
(Ord. 88-70AC CMS. Passed 10-17-88.)

CHAPTER 1342
"C-2" General Business District

1342.01	District, purpose, and regulations established.	1342.04	Area, height and yard regulations.
1342.02	Permitted uses.		
1342.03	Conditional uses.		

CROSS REFERENCES

Zoning appeals and hearings - see P. & Z. 1325.02 et seq.
 Off-street parking and loading - see P. & Z. Ch. 1349
 Sign definitions - see P. & Z. 1321.77
 Sign regulations for commercial districts - see P. & Z. 1351.06

1342.01 DISTRICT, PURPOSE, AND REGULATIONS ESTABLISHED.

The regulations set forth in this chapter, or set forth elsewhere in this Zoning Ordinance, when referred to in this chapter, are the district regulations in the "C-2" General Business District. The "C-2" General Business District is established for the following purposes:

- (a) To provide one or more General Business Districts that offer a variety of retail, service, and civic establishments which are required to serve the trade area, especially those which are not permitted or are not compatible with the central business district, such as uses requiring large parking or vehicle queuing areas, uses with outdoor storage or sales, uses which retail large items such as vehicles or equipment, uses which provide service to vehicles, and other similar uses.
- (b) To provide locations with frontages upon and access to major highways having significant amounts of local and non-local traffic which can be served by the businesses in the district and which highways are designed to serve the type and volumes of traffic generated by such businesses.
- (c) To regulate infill commercial development in areas where a pattern of scattered commercial uses and other related or compatible uses already exist and to encourage such infill development in a manner which is compatible with and promotes the functioning of the area and the community.

(Ord. 96-82 AC CMS. Passed 9-16-96.)

1342.02 PERMITTED USES.

No building, structure, or premises shall be used, arranged to be used, or designed to be used except for one or more of the following uses and in conformity with the standards set forth herein:

- (a) Establishments engaged in retail trade.
 - (b) Eating and drinking establishments.
 - (c) Establishments engaged primarily in the fields of finance, insurance and real estate, such as:
 - (1) Financial institutions.
 - (2) Insurance company.
 - (3) Real estate brokerage.
 - (4) Title company.
 - (d) Establishments providing personal and business services.
 - (e) Public buildings.
 - (f) Shops of contractors and repair shops (except those requiring a Conditional Use Permit as described in 1342.03).
 - (g) Accessory uses clearly incidental to the principal uses permitted on the same premises, including repair of goods sold on the premises.
 - (h) Medical and other health services, hospitals and clinics.
 - (i) General, professional, administrative or business offices.
 - (j) Schools and other establishments offering classes.
 - (k) Hotel, motel, bed and breakfast inn.
 - (l) Child or adult day care centers.
 - (m) Mortuaries.
 - (n) Recreation and entertainment uses including health spas, sport clubs, pool halls, game rooms, party centers, and other commercial recreational facilities.
 - (o) Newspapers, printers, publishers.
 - (p) Private clubs or lodges.
- (Ord. 96-82 AC CMS. Passed 9-16-96.)

1342.03 CONDITIONAL USES.

The following uses may be established in the C-2 District if approved by the Planning Commission according to the procedures and standards for a Conditional Use Permit:

- (a) Other uses determined by City Council to be similar uses.
 - (b) Filling Station, automobile gas station, or repair garage.
 - (c) Drive-through or drive-up facility as an accessory use to a permitted or conditionally permitted use.
 - (d) Church or temple.
 - (e) School.
 - (f) Nursing home.
 - (g) Outdoor sales, storage, display as an accessory use to a permitted or conditionally permitted use.
 - (h) Self-service storage facilities.
 - (i) Car wash.
 - (j) Establishment engaged in the sales, servicing, leasing, or repair of automobiles, trucks, trailers, agricultural equipment, or other vehicles or equipment.
 - (k) Animal hospital, veterinary clinic, kennel.
- (Ord. 96-82 AC CMS. Passed 9-16-96.)

1501.25 PERMITS AND FEES.

(a) The Fire Chief shall prepare application forms and a filing system for permits to be issued pursuant to the Fire Prevention Code and shall perform all functions required thereunder.

(b) The following schedule shall apply to all Fire Prevention Code and permit fees within the City:

	Administrative Fees	Fee	Term
	Inspection or acceptance test (after normal working hours plus \$25 per hour or portion thereof)	\$200	
	Reinspection, retesting or additional testing	\$50	Each
	Additional plan review	\$25	Per hour
	Fire Inspection Fees	Fee	Term
SI	Self-inspection by property owner for compliance with Fire Code regulations.	\$25	Annual
I-1	Inspection of any structure with an area less than three thousand (3,000) square feet, for compliance with fire code regulations.	\$50	Biannual
I-2	Inspection of any structure with an area between equal or greater than three thousand (3,000) and less than ten thousand (10,000) square feet, for compliance with fire code regulations.	\$100	Biannual
I-3	Inspection of any structure with an area equal or greater than ten thousand (10,000) and less than twenty thousand (20,000) square feet for compliance with fire code regulations.	\$150	Annual
I-4	Inspection of any structure with an area equal or greater than twenty thousand (20,000) square feet for compliance with fire code regulations.	\$300	Annual
R-1	First reinspection to ensure mitigation of violations.	NC	
R-2	Any subsequent reinspection to determine compliance if initial reinspection reveals the violation has not been mitigated.	\$80	Per visit
	Additional fee for program non-compliance	20% of inspection fee	
	Inspections after normal working hours.	\$350	Per visit
	Adoption, foster home inspection.	NC	
	Certificate of fire code compliance.	\$20	
	Fire Watch (per hour or portion thereof per inspector)	\$25	Per hour
	Fireworks (per hour/per inspector)	\$25	Per hour

Section	Operational Permits	Fee	Term
105.6.1	Aerosol products	\$65	Annual
105.6.2	Amusement buildings	\$65	Annual
105.6.3	Aviation facilities	\$65	Annual
105.6.4	Carnivals and fairs	\$65	Event
105.6.5	Cellulose nitrate films	\$100	Annual
105.6.6	Combustible dust-producing operations	\$65	Annual
105.6.7	Combustible fibers	\$65	Annual
105.6.8	Compressed gases	\$65	Annual
	- Flammable in excess of 200 cu. ft.		
	- Highly toxic or toxic; any amount		
	- Inert and simple asphyxiant in excess of 6,000 cu. ft.		
	- Corrosive in excess of 200 cu. ft.		
	- Oxidizing in excess of 504 cu. ft.		
105.6.9	Covered mall buildings	\$65	Annual
105.6.10	Cryogenic fluids	\$65	Annual
105.6.11	Cutting and welding	\$30	Annual
105.6.12	Dry cleaning plants	\$65	Annual
105.6.13	Exhibits and trade shows	\$90	Event
105.6.14	Explosives		
	- Store, handle, sale	\$300	Annual
	- Use of explosives	\$300	Annual
	- Transport explosives	\$100	Annual
	- Store/sale ammunition	\$100	Annual
	- Black powder, store/sale	\$65	Annual
	- Fireworks display	\$100	Event
105.6.15	Fire hydrants and valves (use)	\$25	Day

Section	Operational Permits (Cont.)	Fee	Term
105.6.16	Flammable and combustible liquids		
	- Temporary (less than 30 days)	\$35	
	- Class 1 > 5 gal. inside or 10 gal. stored/used outside	\$35	Annual
	- Use or store Class II and Class IIIA	\$65	Annual
	- To operate tank vehicles, equipment, plants, terminals	\$65	Annual
	- Use or store aboveground or underground tanks/systems	\$65	Annual
	- To manufacture, process, blend or refine	\$100	Annual
	- Liquid storage room	\$65	Per room
	- Liquid storage warehouse	\$100	Annual
	- Use, dispense and mix room	\$65	Per room
105.6.17	Floor finishing	\$65	Event
105.6.18	Fruit and crop ripening	\$65	Annual
105.6.19	Fumigation and thermal insecticidal fogging	\$35	Event
	General fire code permit	\$50	
105.6.20	Hazardous Materials	\$200	Annual
105.6.21	HPM facilities	\$200	Annual
105.6.22	High-piled storage	\$65	Annual
105.6.23	Hot work operations	\$65	Annual
105.6.24	Industrial ovens	\$30	Annual
105.6.25	Lumber yards and woodworking plants	\$65	Annual
105.6.26	Liquid or gas-fueled vehicles or equipment in assembly buildings	\$65	Event
105.6.27	LP-gas	\$65	Per tank
105.6.28	Magnesium	\$65	Annual
105.6.29	Miscellaneous combustible storage	\$50	Annual
105.6.30	Open burning (except recreational fires)	\$25	Event
105.6.31	Open flames and torches	\$65	Annual

Section	Operational Permits (Cont.)	Fee	Term
105.6.32	Open flames and candles	\$65	Annual
	- In conjunction with other permits	\$10	Annual
105.6.33	Organic coatings	\$75	Annual
105.6.34	Places of assembly		
	- Less than 100 occupants	\$10	Annual
	- Each additional 100 occupants	\$25	Annual
	- Maximum	\$200	Annual
105.6.35	Private fire hydrants (add/remove/use)	\$65	Event
105.6.36	Pyrotechnic special effects material	\$150	Event
105.6.37	Pyroxylin plastics	\$65	Annual
105.6.38	Refrigeration equipment	\$65	Annual
105.6.39	Repair garages and motor fuel-dispensing facilities	\$65	Annual
105.6.40	Rooftop heliports	\$100	Annual
105.6.41	Spraying or dipping	\$65	Annual
105.6.42	Storage of scrap tires and tire byproducts	\$65	Annual
105.6.43	Tents, air supported structures (over 300 sq. ft.)	\$65	Event
105.6.44	Tire-rebuilding plants	\$65	Annual
105.6.45	Waste handling	\$65	Annual
105.6.46	Wood products	\$65	Annual
Section	Construction Permits	Fee	Term
	All construction permit fees include initial plan review and first inspection/acceptance test during normal working hours unless otherwise specified. Additional fees required for plan resubmission, retest, additional tests, and tests after normal working hours.		
	Acceptance test after normal working hours: initial fees + base + \$25 per hour or portion thereof	\$100	Base

Section	Construction Permits (Cont.)	Fee	Term
105.7.1	Automatic sprinkler systems (install or modification)		
	- Base fee	\$200	
	- plus \$0.40 per head	\$0.40	
	Underground pressure test/flush	\$150	
	Automatic fire extinguishing systems (per system)	\$75	
	Commercial hood system	\$75	
	Smoke control system	\$150	
	Emergency generator test	\$100	
105.7.2	Battery systems	\$95	
105.7.3	Compressed gases	\$75	
105.7.4	Fire alarm and detection systems		
	- Base fee	\$50	
	- plus \$1.00 per device	\$1.00	
105.7.5	Fire pumps and related equipment	\$150	
105.7.6	Flammable and combustible liquids		
	- Install, construct or alter tank or equipment	\$75	
	- Install, alter, remove, abandon, or otherwise dispose of tank	\$75	
	- Temporary closure	\$50	
	- Construct a Use/Dispensing and Mixing Room, Liquid Storage Room, or Liquid Storage Warehouse	\$155	
	- Flammable liquids dispensing (per dispenser)	\$10	
105.7.7	Hazardous materials	\$100	
105.7.8	Industrial ovens	\$100	

Section	Construction Permits (Cont.)	Fee	Term
105.7.9	LP-gas		
	- Permanent AST tank installation (per tank)	\$75	
	- Permanent UST tank installation (per tank)	\$150	
	- Temporary tank installation	\$45	
	Special event inspection/permit	\$100	
105.7.10	Private fire hydrants	\$45	
105.7.11	Spraying or dipping operations	\$75	
105.7.12	Standpipe systems (per riser)	\$75	
105.7.13	Temporary membrane structures, tents, canopies (except recreational camping, funeral tents)	\$25	

(c) Fire Safety Self-inspection Program. The Fire Chief may implement a self-inspection program for monitoring compliance with fire safety laws and regulations as adopted by the City. Property owners or primary lessees that are eligible, as determined by the Fire Department, for the fire safety self-inspection program, shall adhere to the requirements of such program as implemented by the Fire Department and shall be subject to the fee provided in Section (b) above.

(d) False Fire Alarm Fees.

Definitions:

Commercial Property: Any structure or occupancy use not classified as Residential Property as defined in this section.

False Alarm: The activation of any fire alarm system which results in a response by the fire department and where the fire department determines that the activation of a fire alarm system was not related to a fire or life safety emergency.

Fire Alarm System: A system or portion of a combination system consisting of components and circuits arranged to monitor and/or exterior annunciate the status of a fire alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals.

Owner: Any person who owns the premises in which a fire alarm system is installed or the person or persons who lease, operate, occupy or manage the premises. The owner shall be responsible for the activation of a fire alarm system.

Residential Property: Any structure or occupancy use classified as one-, two- or three-family dwellings.

False fire alarms that qualify under this section include:

- (1) Alarm caused by improper installation or maintenance of the fire alarm system. This includes missing backup batteries, loose connections, smoke detectors mounted near air vents or otherwise overly sensitive detection devices.

- (2) Alarm caused by alarm user or alarm company working on the system or testing the system without notifying the alarm company or fire dispatch.
- (3) False alarm activated by owner or an employee.
- (4) Occupant conducting a fire drill without notifying the alarm company or fire dispatch.
- (5) Alarm caused by an employee of the business or family member of a residence smoking near a detector.
- (6) Alarm caused by normal cooking where the owner could relocate a smoke detector or provide better ventilation.
- (7) Alarm caused by dust from building or site construction or demolition.
- (8) Burglar alarm reported as a fire alarm by an alarm company.
- (9) Alarm for which there is no explanation. If a cause for the alarm cannot be identified - no pull station activated, smoke was not present, etc. - the alarm system will be assumed to have malfunctioned and the fee assessment applies.

A response to the activation of a fire alarm system shall result when any officer or member of the Fire Department is dispatched to the premises where the fire alarm system has been activated.

The fire official may also require the owner to return a completed Report of Service/Repair within fifteen (15) days of receipt of the fire alarm activation report to verify, to the reasonable satisfaction of the fire official, that:

- (1) The fire alarm system has actually been examined by a qualified fire alarm technician; and
- (2) A bona fide attempt has been made to identify and correct any defect of design, installation or operation of the fire alarm system which was identifiable as the cause of the false fire alarm.

Failure to return a Report of Service/Repair within said fifteen (15) day period, which is reasonably satisfactory to the fire official, shall result in a fee assessment against the owner of a fee for the false fire alarm.

The provisions of this section shall not apply to any newly installed fire alarm system for a period of forty-five days (45) from the date of installation, but shall apply from and after the expiration of the initial forty-five day (45) period following installation.

False Fire Alarms. No fee shall be assessed for the first two (2) false fire alarms at the same premises responded to by the Fire Department during each calendar year. Thereafter, the owner shall pay a fee for false fire alarms responded to by the Fire Department at the same premises during each calendar year, except when the fire alarm business is responsible for the false fire alarm. If the fire official determines that a false fire alarm was directly caused by an onsite employee or representative of the fire alarm business, the fire alarm business shall be assessed the fee and the incident shall not be counted against the owner. False fire alarms activated by any components connected to the fire alarm system shall be included in computing the total number of false fire alarms for purposes of this subsection. The activation of a fire alarm system will not be considered a false fire alarm if the alarm is activated due to malicious causes beyond the control of the owner.

The fees for false fire alarms may be assessed as follows:

Description	Residential	Commercial
Failure to return a Report of Service/Repair	\$500	\$500
False alarm caused by on-site alarm company employee	\$350	\$350
Service fee - 3 rd false fire alarm	\$120	\$240
Service fee - 4 th false fire alarm	\$150	\$300
Service fee - 5 th false fire alarm	\$180	\$360
Service fee - 6 th and above false fire alarm	\$200	\$400
Late payment fee	\$25	
If fee not paid within 30 days, fee increases to \$300 fee per occurrence.		

(e) Motor Vehicle Collision or Incident Fee. The Fire Department shall initiate a user fee for the delivery of Fire Department services, personnel, supplies, and equipment to the scene of a motor vehicle collision or crash (MVA), including, but not limited to, securing the scene of the accident, establishment of a safety zone, extrication of victims trapped, providing any fire/medical services, and the extinguishment of vehicle fires, as necessary. The rate of the user fee shall include the actual costs incurred by the Fire Department.

The user fee shall be billed to the motor vehicle insurance carrier of the responsible person for the incident, representing an add-on-cost of the claim for damages. The City will accept the amount received from the insurance company as full payment.

(f) Site Assessment Fee. The fee assessed for a review of property records of tanks, ground contamination, or hazardous materials spills at a particular site or property. A fee of \$25 per site or property reviewed.

(g) Charges for Emergency Ambulance Transport. A fee shall be charged to recipients of emergency medical services (ambulance) transportation performed by Fire Department, from the emergency site to the nearest appropriate hospital and/or medical facility. For all City residents, invoicing will be in the form of a request of an assignment of insurance company proceeds available to the resident, and the City will accept as full payment the usual and customary rates as allowed by the particular insurance company. The City will not charge or collect any amount of money in excess of the insurance payments received and available to any resident who receives fire department services for the reason that operating revenues received from local taxes, of all kinds, are being treated as payment of otherwise applicable co-payments and deductibles.

Nonresidents will be invoiced for the entire cost of the rescue squad services after being credited for any available assignment of insurance company proceeds.

Fees shall be assessed on the following basis:

Level of service	Fee
Basic life support transport	\$335
Advanced life support transport	\$620

(h) The Fire Chief may waive any or all of the above fee requirements in cases of hardship.

(i) The City Manager and/or Finance Director are authorized to contract with a company specializing in the billing of Fire Department services for cost recovery and collection of such user fees as a result of the above services being provided.
(Ord. 14-07AC CMS. Passed 4-7-14.)

1501.26 APPEALS.

(a) In order to hear and decide appeals of orders, decisions, or determinations made by the Fire Chief or any Municipal Fire Safety Inspector relative to the application and interpretation of the Fire Prevention Code, there shall be established a Fire Code Board of Appeals. The Fire Chief shall be an ex officio member of said board but shall have no vote on any matter before the board. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Fire Chief. The Fire Code Board of Appeals shall consist of the Chair of Council, an interested resident and the City Manager.

(b) Any person affected by a decision of the Fire Chief or a notice or order issued under this Code shall have the right to appeal to the Fire Code Board of Appeals provided that a written application for appeal is filed within thirty (30) days from the date of the decision, notice or order was served. An application for appeal shall be based on a claim that the intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or an equivalent method of protection or safety is proposed. The Board shall have no authority to waive requirements of this Code.
(Ord. 02-37 AC CMS. Passed 4-15-02.)

1501.27 DIGITAL/ELECTRONIC DRAWING FILE SUBMISSIONS.

(a) General. Projects requiring a construction permit from the Oberlin Building Department, including projects performed under annual facility or operating permits shall submit one (1) digital/electronic copy of the permit drawings in accordance with the required format in addition to the Building Department's required paper copies. A digital/electronic copy of the drawing shall not be required for the following:

- (1) R3 occupancies.
- (2) R4 occupancies.
- (3) Single family residences.
- (4) Other buildings or structures accessory to and located on the same lot with one and two family dwellings.
- (5) Projects not required to submit drawings to obtain a permit.

The digital/electronic copy of the permit drawings shall be submitted to the Fire Department through the Building Department for approval by the Fire Prevention Bureau.

(b) Required Format. The digital/electronic files, required under this section, shall be submitted on DVD/CD-ROM in an approved format compatible with the Current Fire Department records management system. If submitted files are embedded with external references ("xref's"), such (xref) drawings shall be included on the submitted CD/DVD-ROM. Cryptic naming for layers/files shall include a "definition key". All digital/electronic files shall be drawn in feet at a 1: 1 scale.

- (1) Required information. At a minimum, each file shall contain the following information:

A. Floor plans:

1. One plan for each building floor.
2. All exterior and interior walls; all rated fire walls.
3. All door locations (ingress/egress) throughout the building, including roll up doors and roof hatch/doors.
4. Stairs and elevator locations.
5. Room/suite's names and/or numbers.
6. Utility shutoff locations (water, electric and gas).
7. Special hazards and high-piled stock/racks, if any.
8. Fire Department items shall include, but are not limited to, the location of all standpipes, fire sprinkler risers, fire extinguishing systems, alarm panels, Fire Department connections, and Knox-boxes.

B. Site Plan: Including parking lot, building numbers, parking garages, fire lanes and hydrants.

C. Roof Plan: Layout and access (ladder/hatch locations).

- (2) Not required. The drawings are not required to contain layers listing furnishings, floor coverings, ceiling styles/grids, plumbing fixtures, electrical (lights, switches, outlets), wall coverings, or landscape information. (Ord. 08-80AC CMS. Passed 11-3-08.)

1501.99 PENALTY.

(a) Criminal Penalties.

- (1) Whoever violates Section 1501.10(a), or any provision of this chapter for which no other penalty is provided, is guilty of a misdemeanor of the first degree.
(O.R.C. 3737.99(B))