

## CITY OF OBERLIN, OHIO

### ORDINANCE No. 15-17 AC CMS

#### AN ORDINANCE TO APPROVE AND ADOPT THE CURRENT REPLACEMENT PAGES TO THE CODIFIED ORDINANCES

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 or by initiative of the people 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 revisions which are 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 2015 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>
Initiative approved by voters	11-5-13	521.13
14-50AC	9-15-14	925.01 to 925.13, 925.99
14-58AC	1-5-15	551.01 to 551.04
14-64AC	1-5-15	1327.01 to 1327.06
14-65AC	12-15-14	1321.97, 1349.01, 1349.02, 1349.03, 1357.10

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 That the following sections and chapters as set forth in **Exhibit A** are hereby added, amended or repealed as respectively indicated in order to comply with current State law:

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 B**. 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. That this ordinance shall take effect at the earliest date allowed by law.

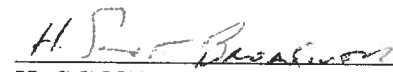
PASSED: 1st Reading: April 6, 2015

2nd Reading: April 20, 2015 (S)

3rd Reading: \_\_\_\_\_

ATTEST:

  
\_\_\_\_\_  
BELINDA B. ANDERSON, MMC  
CLERK OF COUNCIL

  
\_\_\_\_\_  
H. SCOTT BROADWELL  
PRESIDENT OF COUNCIL

POSTED: 04/21/2015

EFFECTIVE DATE: 05/20/2015

**INSTRUCTIONS FOR INSERTING  
2015 REPLACEMENT PAGES  
FOR THE  
CODIFIED ORDINANCES OF OBERLIN**

All new replacement pages bear the footnote "2015 Replacement". Please discard old pages and insert these new replacement pages immediately as directed in the following table.

**Discard Old Pages**

**Insert New Pages**

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DRAFT

**CODIFIED  
ORDINANCES  
OF THE  
CITY OF  
OBERLIN, OHIO**

**Complete to January 5, 2015**

**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 January 5, 2015.

/s/ H. Scott Broadwell  
President

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

**CITY OF OBERLIN**  
**ROSTER OF OFFICIALS**  
**(2015)**

**COUNCIL**

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

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

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**Eric P. Norenberg, ICMA-CM**  
**Jon Clark, Esq.**  
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**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.



## GENERAL INDEX

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

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

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## CHARTER OF THE CITY OF OBERLIN, OHIO

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EDITOR'S NOTE: The Charter of the City of Oberlin was originally adopted by the electors on November 2, 1954. Dates appearing in parentheses following a section heading indicate that the section was subsequently amended, enacted or repealed on the date given.

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## CHARTER OF THE CITY OF OBERLIN, OHIO

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### PREAMBLE

We, the people of the City of Oberlin, in the County of Lorain, and the State of Ohio, to secure the benefits of local self-government under the Constitution of the State of Ohio, do adopt this Charter.

### SECTION 1. NAME AND BOUNDARIES.

The municipal corporation now existing and known as the City of Oberlin shall continue to be a body politic and corporate under the same name and with the same boundaries, with power and authority to change its boundaries in the manner authorized by the laws of the State of Ohio, except that no territory of this Municipality shall be detached from, annexed to or merged with any other body politic without the assent of the Council and of a majority of the electors of the City voting on such question at a general election held and conducted in the manner provided by law. Contiguous territory may be annexed to the Municipal Corporation in the manner provided by the laws of the State of Ohio.

### SECTION II. POWERS.

The City of Oberlin shall have all powers of local self-government, and all the powers, general or special, governmental or proprietary, which may now or hereafter lawfully be possessed by municipalities under the Constitution and laws of Ohio. All such powers may be exercised in the manner prescribed in this Charter, or by ordinances of Council created hereby. Enumeration of or reference to particular powers by this Charter shall not be construed to be exclusive.

### SECTION III. COUNCIL.

A. Powers, Number and Terms. All the legislative powers of the City of Oberlin, except as limited by this Charter and the Constitution of Ohio, shall be vested in a Council of seven (7) members elected at large in a nonpartisan election, for a term of two (2) years. Members shall serve concurrently, beginning on the first Monday of January of the year following their election and until their successors are elected and qualified, and no member shall be elected to more than five (5) consecutive terms.

B. Qualifications. No person shall be eligible to be a member of Council unless at the time of his or her election or appointment he or she is qualified under the then existing requirements for election of council members of municipalities set forth in the Constitution and laws of the State of Ohio. No person shall continue to serve as a member of Council unless, during his or her term of office, he or she shall continue to be a resident. No member of Council shall hold any appointive office within the Municipality. No member shall be interested in the profits or emoluments of any contract, job, work or service for which monies of the Municipality are, or will be expended. A municipal employee of the City of Oberlin shall not be eligible to serve as a member of Council. An employee of the City Schools of the City of Oberlin or any other school district or educational system shall be eligible to serve as a member of Council. (Amended May 7, 1974; Init. 11-7-78; amended November 2, 2004.)

C. Removal. Council shall be the sole and final judge of the election and qualification of its members, subject however to the recall provision of this Charter. It may expel or remove any member for gross misconduct, or for misfeasance, malfeasance or nonfeasance in, or disqualification from holding office, or for conviction while in office of a crime involving moral turpitude, or for the violation of his or her oath of office, or for persistent failure to abide by the rules of Council, or for absence without justifiable excuse for three consecutive regular meetings of Council. Such expulsion shall not take place except on concurrence of five (5) of the members of Council, nor until the accused member shall have been notified in writing of the charge against him or her at least ten days in advance of any hearing upon such charge, and until he or she or his or her counsel shall have been given the opportunity to appear before Council and be heard, present evidence and examine witnesses appearing in support of the charge. (Amended November 8, 1994)

D. Vacancies. Whenever the office of a member of Council becomes vacant for any reason, the vacancy shall be filled for the unexpired term by a majority vote of the then remaining members of Council. Each Council member appointed to fill a vacancy shall hold office for the balance of the unexpired term, or until his or her successor is elected and qualified.

E. Salaries. Council may determine and fix the salary of its members at its discretion; but the salaries of Council members shall not be increased or decreased during the elective term of office which they are serving. If Council determines to change the established salary in respect to a succeeding term of office, such change must be made by Council on or before the first day of February of the second year of the elective term then being served by Council. Unless and until the salary is so changed it shall remain as last fixed. The salaries of Council members shall be paid in equal monthly installments.

F. Meetings and Organization. During the first regular meeting in January following each regular municipal election, Council shall meet at the Council Chambers of the Municipality for the purpose of organization. Thereafter Council shall meet at such times as may be prescribed by its rules, regulations, ordinances and bylaws; but it shall hold regular meetings at least twice during the calendar months of the year, with the exception of the months of July and August, during each of which months Council may at its discretion dispense with one of its regular meetings. All meetings of the Council, whether regular or special, shall be open to the public in accordance with State law. (Amended November 4, 2014)

G. Police Justice. (EDITOR'S NOTE: Subparagraph G. was repealed by the voters on November 8, 1995. Former subparagraph H. was relettered as subparagraph G.)

G. President of Council. The Council shall at the time of its organization select one of its members to serve as presiding officer, with the title of President of Council and of Mayor. As Mayor he or she shall be recognized as the official head of the Municipality for all ceremonial purposes, and by the Governor for military purposes. The President of the Council shall be empowered to execute legal instruments for the Municipality, but shall have no other administrative functions. He or she shall have all the powers, duties, functions, obligations and rights of any other member of Council.

At the same time a Vice-President also shall be selected by Council, and shall serve as presiding officer and/or Mayor in the absence of the person serving the combined position as President-Mayor. (Amended November 4, 2014)

#### SECTION IV. NOMINATION FOR ELECTIVE OFFICES.

Nomination for the elective offices of the Municipality shall be made only by petition, carrying the consent of the nominee, signed by registered electors of the Municipality in number not less than 25 nor more than 50. Each candidate shall be nominated by a separate petition, and no primary election shall be held for the selection of candidates for any elective office, and no party mark or designation shall be used in any municipal election. Petition for nomination to an elective office shall be filed with the Lorain County Board of Elections at least 90 days and not more than 150 days prior to election day. The names of all candidates nominated shall be placed on the ballot in the manner provided by the election laws of the State of Ohio.

#### SECTION V. APPOINTMENT OF CITY MANAGER.

A. City Manager. Council shall, by a vote of at least five (5) of its members, appoint a City Manager who shall act as administrative head of the City under the direction and supervision of Council, and who shall hold office at the pleasure of Council.

B. Designation of Acting City Manager During Temporary Absence. The Assistant City Manager shall serve as the Acting City Manager during the City Manager's absence, disability or suspension. During his or her term of office, the City Manager shall from time to time designate in writing to the Clerk of Council another City Administrator who shall serve as Acting City Manager in the event the Assistant City Manager shall be unable or unavailable to serve during the City Manager's absence, disability or suspension. The person so designated shall be, in the opinion of the City Manager, appropriate and qualified to exercise the powers and perform the duties of the City Manager. During such absence, disability or suspension, the Council may by a vote of five (5) of its members revoke such designation at any time and appoint another qualified City Administrator to serve until the City Manager returns, the disability ceases, the suspension ends, or a new or Interim City Manager is appointed. Any such designation or revocation shall be subject to rules established by Council. (Amended November 4, 2014)

C. Appointment of Interim Manager to Fill Vacancy. In the event of a vacancy in the office of City Manager due to death, resignation or removal, Council may at its discretion appoint an Interim City Manager who will perform all duties of the office of City Manager until such time as Council appoints a new City Manager to fill the vacancy. (Amended November 8, 1994)

#### SECTION VI. REMOVAL OF CITY MANAGER.

Council may remove the City Manager by a vote of five (5) of its members. At least thirty (30) days before such removal shall become effective, Council shall by a majority vote of its members adopt a preliminary resolution stating the reasons for his or her removal. By the preliminary resolution Council may suspend the City Manager from duty. The City Manager may reply in writing. Within two weeks after receiving such notice of preliminary resolution, the City Manager may request a public hearing, which shall be held within twenty (20) days after

the filing of such request in writing. Within ten (10) days after such public hearing, if one be requested, and after full consideration, of all evidence presented, Council by a vote of five (5) of its members shall announce its final decision. The action of Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the Council.  
(Amended November 4, 2014)

**SECTION VII. CREATION OF NEW DEPARTMENTS, OFFICES, COMMISSIONS AND BOARDS - CHANGE OF DUTIES.**

Council by ordinance may create, change or abolish offices, commissions, departments, boards, committees or agencies, other than those established by this Charter. Council by ordinance may assign additional functions or duties to such entities as established by this Charter, but may not discontinue or assign to any other entity any function or duty assigned by this Charter to a particular entity.

Council may by ordinance provide for such other departments, divisions, boards, commissions, officers and employees as it may deem necessary from time to time, and determine the organization and the duties of each. Council may by ordinance change, abolish, combine, divide or rearrange such departments, divisions, boards, commissions, officers or employments except as otherwise provided in this Charter. Administrative officers appointed by Council shall serve during the pleasure thereof.

(Amended November 2, 2004)

**SECTION VIII. COUNCIL PROHIBITED FROM INTERFERING IN APPOINTMENTS OR REMOVALS.**

Neither Council nor any of its members shall direct or request the appointment of any person to, or his or her removal from office by the City Manager or by any of his or her subordinates, or in any manner take part in the appointment or removal of employees in the administrative service of the Municipality, except at the request of the City Manager. Except for purposes of inquiry, Council and its members shall deal with the administrative services solely through the City Manager and neither Council nor any member thereof shall give orders to subordinates of the City Manager, either publicly or privately.

**SECTION IX. PROCEDURE OF COUNCIL.**

A. Council Rules and Journal. Council shall determine its own rules and order of business insofar as they are not set forth in this Charter. Council shall keep a record of its proceedings which shall be open to public inspection.

B. Action to be Taken by Ordinance or Resolution. All legislative action shall be by ordinance or resolution, except when otherwise required by the Constitution or the laws of the State of Ohio, but departmental procedure and administrative matters may be transacted by recorded motion.

C. Reading, Passage, Posting and Recording of Legislative Action.

1. The agenda for the next regular City Council meeting shall be made available to the general public at least seventy-two (72) hours prior to the meeting, unless five (5) members of Council vote to proceed in spite of the failure to provide such notice.

2. No ordinance or resolution shall deal with more than one subject, and that subject shall be clearly expressed in the title. Each ordinance and resolution shall be introduced in writing in the form in which it is to be finally passed.
3. Every ordinance and resolution affirmed shall have been considered on three (3) different days, unless five (5) members of Council vote to suspend this rule.  
(Amended November 2, 2004)
4. Any ordinance or resolution shall be read upon its introduction by number, title, and substantive portions, unless four (4) members of Council vote to suspend the rule and read it in full. Any ordinance or resolution shall be read by number and title only upon its second and third considerations, unless four (4) members of Council vote in favor of a fuller reading. Council may, by unanimous vote, dispense with the requirement for a reading of substantive portions of an ordinance or resolution where Council has determined that such reading is not necessary and that dispensation of the requirement would promote efficiency on the conduct of its meeting.  
(Amended November 4, 2014)
5. After first passage, the ordinance or resolution, in the form in which it was passed, shall be posted for public inspection at City Hall and at two (2) or more public locations, and copies shall be made available at the office of the Clerk of Council. If the ordinance or resolution is subsequently amended, the amended ordinance or resolution shall similarly be made available for public inspection upon passage.
6. Upon due consideration of each ordinance or resolution a vote shall be taken by "ayes" and "nays" and shall be entered into the record. No ordinance or resolution shall be passed without the affirmative vote of at least four (4) members of the Council. All persons interested shall be given opportunity to be heard on any ordinance or resolution before a vote is taken on any reading.
7. Any ordinance which amends a previously existing ordinance shall be passed in a form that will either replace the original ordinance or one or more entire sections.
8. All ordinances or resolutions upon their final passage shall be recorded in a book kept for that purpose. The signatures of the presiding officer and of the Clerk of Council shall authenticate them, but failure to sign an ordinance or resolution for the purpose of authentication shall neither invalidate the ordinance or resolution nor impair its effectiveness.  
(Amended November 2, 2004)
9. The City Council may, by Rule, provide for the electronic casting and tabulation of its votes.  
(Enacted November 4, 2014)

D. Revision, Rearrangement and Codification of Ordinances. Council may provide for the revision, rearrangement and codification of the ordinances of the Municipality or any portion thereof at such time as Council may determine.

E. Effective Date of Ordinances and Resolutions. All ordinances and resolutions of a general or permanent nature, or those involving the expenditure of money in which no emergency is declared, shall take effect thirty (30) days after their passage by Council. Emergency ordinances shall take immediate effect as provided by Section X of this Charter. (Amended November 8, 1994)

#### SECTION X. EMERGENCY ORDINANCES AND RESOLUTIONS.

An emergency ordinance or resolution is an ordinance or resolution necessary for the immediate preservation of the public peace, health or safety, or providing for the usual daily operation of a municipal department, and shall take effect immediately upon passage by Council. Ordinances or resolutions providing for the appropriation of money, or annual tax levy, or for improvements petitioned for by owners of a majority of the front footage of the property benefited and to be specially assessed thereon, may be passed on emergency. Ordinances and resolutions may be elevated to emergency status only by an affirmative vote of five (5) or more members of Council. The reasons for declaring such ordinance or resolution to be an emergency measure shall be set forth in the preamble or in one section of the ordinance or resolution. Any ordinance or resolution that shall have been elevated to emergency status shall be passed upon final reading by the affirmative vote of five (5) or more members of Council and shall take effect immediately upon passage or by the affirmative vote of four (4) members of Council in which event such ordinance or resolution shall become effective thirty (30) days after its passage. No ordinance or resolution granting, renewing, or extending a franchise or other special privilege, regulating a rate to be charged for its services by any privately, or municipally, owned public utility, nor any ordinance or resolution changing the boundaries of the Municipality or the surrender or joint exercise of its powers, may be passed on emergency. (Amended November 4, 2014)

#### SECTION XI. INDEPENDENT AUDIT.

Council may provide at appropriate times for an audit of the financial records of the Municipality. A condensed summary of that audit report shall be published in a manner stipulated by Council. (Amended November 6, 1957)

#### SECTION XII. SPECIAL MEETINGS.

Special meetings of Council may be called by a vote of Council at any regular or special meeting. Special meetings shall be called by the Clerk upon written request of the President or three (3) members of Council. Any vote or request for a special meeting shall state the subject or subjects to be considered at the meeting and no other subject or subjects shall be considered, except on approval of five (5) members of Council attending the special meeting. Twenty-four (24) hours' notice in writing of such requested special meeting shall be given to each member of Council by personal service, or by leaving said notice at his or her usual place of residence; except that members of Council shall be held to have waived such notice by their attendance at the special meeting. (Amended November 2, 2004)

#### SECTION XIII. QUORUM.

Four (4) members of Council shall constitute a quorum to do business, but a lesser number may adjourn from time to time and compel the attendance of absent members in such a manner and under such penalties as may be prescribed by the rules of Council. (Amended November 8, 1994)

**SECTION XIV. THE CITY MANAGER.**

A. Qualifications. The City Manager shall be chosen by Council solely on the basis of his or her executive and administrative qualifications, with special reference to his or her actual experience in, or his or her knowledge of, accepted practice in respect to the duties of his or her office as hereinafter set forth.

B. Powers and Duties. The City Manager shall be the chief executive officer and the head of the administrative branch of the municipal government. He or she shall be responsible to Council for the proper administration of all affairs of the Municipality, and to that end, subject to the civil service provisions of this Charter, he or she shall have power and shall be required to: (1) appoint, and when necessary for the good of the service, remove all officers and employees of the Municipality except those officers appointed by Council (and their employees) and except as he or she may authorize the head of a department or office to appoint and remove subordinates in such department or office; (2) prepare the budget annually and submit it to the Council and be responsible for its administration after adoption; (3) prepare and submit to Council as of the end of the fiscal year a complete report on the finances and administrative activities of the Municipality for the preceding year; (4) keep Council advised of the financial condition and future needs of the Municipality and make such recommendations as may seem to him or her desirable; (5) perform such other duties as may be prescribed by this Charter or required of him or her by Council, not inconsistent with this Charter; (6) attend all meetings of Council except as excused by Council.

The City Manager shall not serve as a member of any board or commission of the Municipality except in an advisory capacity. He or she may attend any or all meetings of such boards and commissions and may enter into the discussions of those boards and commissions but may not vote. (Amended November 8, 1994)

C. Salary, Oath, Bond, Seal. The City Manager shall receive such salary as fixed by the Council. Such part of the salary of the City Manager as the Council deems proper shall be paid from the income of any publicly owned utility operated by the Municipality. Before entering upon the duties of the City Manager, he or she shall take the oath required and shall execute bond in favor of the Municipal Corporation for the faithful performance of his or her duties, such bond to be fixed and paid by the Municipality. The City Manager shall be furnished with the corporate seal of the Municipal Corporation.

**SECTION XV. CLERK.**

Council shall appoint a Clerk to serve at Council's pleasure who shall act as Clerk of the Council, keep its records, make annual reports on Council proceedings and perform such other duties as are required by ordinance or resolution. The duties and office of Clerk may be combined by ordinances with that of Treasurer or Finance Director.  
(Amended November 2, 2004)

**SECTION XVI. FINANCE DIRECTOR.**

Council shall appoint a Finance Director to serve at Council's pleasure who shall act as the City's chief accountant and auditor, preparing financial statements and budgets in consultation with the City Manager. The Finance Director shall issue warrants to the Treasurer for paying out municipal funds and shall keep an accurate account of all taxes and assessments, and of all money due, all receipts and disbursements by, and of all assets and liabilities of the Municipal Corporation and of all appropriations made by Council. The Finance Director shall at the end of each fiscal year, and more often if required by Council, audit the accounts of the

several departments and officers and shall audit all accounts in which the Municipal Corporation is interested. The Finance Director may prescribe the form of reports to be rendered to his or her department, and the method of keeping accounts by all other departments, and he or she shall require daily reports, showing all money received and disposition thereof, to be made to him or her by each department. The Finance Director shall, upon the death, resignation, removal or expiration of the term of any officer, audit the accounts of such officer, and if such officer is found indebted to the Municipal Corporation, the Finance Director shall immediately give notice to Council and the Law Director.

(Amended November 2, 2004)

#### SECTION XVII. TREASURER.

Council shall appoint a Treasurer to serve at Council's pleasure who shall be custodian of all municipal funds and shall keep the monies in such manner and in such place as is determined by Council. He or she shall pay out money only on warrants issued by the Finance Director. The office of Treasurer may be combined with that of Clerk or City Manager but not that of Finance Director. (Amended November 2, 2004)

#### SECTION XVIII. LAW DIRECTOR.

Council shall appoint a Law Director to serve at Council's pleasure who shall act as the legal adviser to and attorney for the Municipal Corporation, and for all officers, boards and commissions of the Municipal Corporation in matters relating to their official duties. He or she shall prepare, review or amend all contracts, bonds and other instruments in writing in which the Municipal Corporation is concerned, and shall endorse on each his or her approval of the form. No contract with the Municipal Corporation shall take effect until such approval of the Law Director is endorsed thereon.

The Law Director or his or her assistants shall be the prosecutor in any municipal court of the City of Oberlin, and shall perform such other duties and have such assistants and clerks as are required or provided. His or her duties as Law Director do not include the legal representation of the Oberlin School District.

(Amended November 4, 2014)

#### SECTION XIX. BOARDS AND COMMISSIONS.

A. The members of all commissions and boards of the Municipality shall be appointed and may be removed by Council. The members of all boards and commissions shall be removed only by a vote of five (5) or more members of Council for cause as determined by such majority of Council. A member of a board or commission who is subject to removal may request and be heard at a public hearing prior to his or her removal. Any board or commission member who is absent from three (3) consecutive meetings shall be subject to removal. In such event and upon the vote of a majority of the remaining members of such board or commission the Chairman shall notify the Council President and Clerk of Council and shall request the removal and replacement of the member. (Amended November 4, 2014)

B. All boards and commissions shall consist of five (5) members with terms of three (3) years, except the members first appointed to five (5) year terms. No member shall be appointed to more than three (3) consecutive terms. Any vacancy during the unexpired term of an appointed member shall be filled by Council for the remainder of the term. All members appointed to boards and commissions shall be residents and registered and qualified electors of the Municipality at the time of their appointment. Change of residence to outside the corporate limits of the Municipality shall automatically end the term of any board or commission member. Boards and commissions shall establish their own organization, procedure, rules and regulations subject to Council approval, and shall serve without compensation and incur no expenses, except as provided by Council. Agendas, minutes and annual reports are to be submitted to the Clerk of Council.



C. Zoning Board of Appeals. Council shall appoint a Zoning Board of Appeals. The Zoning Board of Appeals shall have such powers and duties as are or may be conferred upon it by the general laws of the State of Ohio, and such powers as may be conferred upon it by Council, including but not limited to appeals from refusal of building permits, and shall have the authority to permit exceptions to or variations from the Zoning Code.

D. Public Utilities Commission. Council shall appoint a Public Utilities Commission. The Public Utilities Commission shall serve as an advisory body to the Council on any and all questions concerning the financing, maintenance, operation and improvement of the public utilities serving the Municipality, both privately and municipally owned.  
(Amended November 2, 2004)

E. City Planning Commission. Council shall appoint a City Planning Commission. The City Planning Commission shall have such powers and duties as are or may be conferred upon it by the general laws of the State of Ohio, and such powers as may be conferred upon it by Council, including but not limited to the plan, design, location, removal, relocation, widening, extension, and vacation of streets, parkways, playgrounds and other public places; the approval of plats for subdivision of land; and the zoning of the Municipality for any lawful purpose. The Commission shall from time to time propose to Council the adoption of strategic plans for the Municipality which are consistent with powers conferred upon it, and shall periodically review such plans to ensure their continued relevance. (Amended November 4, 2014)

F. Recreation Commission. Council shall appoint a Recreation Commission. The Recreation Commission shall act in an advisory capacity and through consultation with other City Boards or Commissions as deemed appropriate by the Commission or by Council, make recommendations to Council concerning the development of playgrounds, parks, recreational facilities and programs for the City, including fees and charges for the use thereof. The Recreation Commission shall also have those powers and shall perform those duties as Council may delegate to it by ordinance or resolution. (Amended November 4, 2014)

G. Civil Service Commission. Council shall appoint a Civil Service Commission. The Commission shall keep minutes of its proceedings and records of its examinations, make investigations concerning the enforcement of the Civil Service provisions of this Charter and report annually to Council

The Commission shall conduct practical and impartial examinations, provide a list of eligible employees and arrange for promotions within the Classified Service, which shall comprise all positions not specifically included by this Charter in the Unclassified Service.

The Unclassified Service shall include:

- (1) Officers elected by the people
- (2) The City Manager
- (3) Appointive positions, commissions and boards
- (4) Heads of departments, including the Police Chief and Fire Chief
- (5) Administrative assistants to appointive and elective officials, department heads and boards or commissions.
- (6) Temporary or part-time employees, except volunteer part-time firefighters and part-time police officers, provided that Council may, by Ordinance, designate part-time firefighters and part-time police officers as being part of the Unclassified Service.

The Classified Service shall comprise all positions not specifically included by this Charter in the Unclassified Service, and shall be divided into competitive and noncompetitive classes.

- (1) The competitive class shall include all positions and employments for which it is practicable to determine merit and fitness of applicants by competitive tests.
- (2) The noncompetitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character and as may be determined by the rules of the Commission, and unskilled labor.  
(Amended November 4, 2014)

#### SECTION XX. TAXATION - LIMITATION ON RATE OF TAXATION.

A. The aggregate amount of taxes that may be levied by the taxing authority of the City of Oberlin without a vote of the people, on any taxable property assessed and listed for taxation according to value, shall not in any one year exceed the amount currently authorized by the Ohio Constitution to be so levied, plus an additional 2.60 mills for each dollar of assessed valuation. The additional 2.60 mills as specified above shall be exclusively used for the following purposes:

1. Within the maximum levy provided for in Section A. herein, the Council may levy an amount not to exceed 1.80 mills for the purpose of providing funds for the payment of Police Pension Fund requirements.
2. Within the maximum levy provided for in Section A. herein, the Council may levy an amount not to exceed 0.80 mills for the purpose of providing funds for the payment of Fire Pension Fund requirements.

B. The limitation upon power of Council to levy taxes as specified herein shall not operate as a limitation upon the power of Council to levy taxes upon such other subjects and for such other purposes as may be lawful under the Constitution and laws of this State.  
(Added November 2, 2010.)

#### SECTION XXI. AMENDMENT OF CHARTER.

This Charter may be amended by the following procedure: Council by a vote of at least five (5) of its members may submit to the electors of the Municipality amendments to this Charter, and Council shall, upon petition being presented to it at a regular meeting of Council setting forth a proposed amendment, signed by not less than 10 percent of the resident qualified electors, submit such a proposed amendment to the electors for adoption or rejection at the next regular municipal election or general election if one shall occur not less than sixty (60) days nor more than one hundred twenty (120) days after the action by Council in certifying the petition or the passage of the ordinance to submit such amendment to the electors and if a regular municipal election or general election shall not occur within such time period the submission of proposed amendments to the electors shall occur at a special election to be called and held within such time period. The full text of any proposed amendment shall be published in a newspaper of general circulation in the Municipality at least once per week for three (3) consecutive weeks in the month prior to the date of election at which said amendment shall be voted upon and a copy of said amendment shall be mailed to each registered voter of the Municipality at least 30 days prior to said election.  
(Amended November 4, 2014)

**SECTION XXII. TIME OF TAKING EFFECT.**

For the purpose of electing Council members this Charter shall take effect on the first day of January, 1955, and an election shall be held the first Tuesday of November, 1955. Council members previously elected to serve beyond the first day of January, 1956, shall complete the unexpired term to which they were elected. In 1955 there shall be four (4) Council members elected and three (3) Council members having unexpired terms. In 1957 seven (7) Council members shall be elected. Council members elected in 1955 shall take office on the first Monday of January, 1956, and for all other purposes this Charter shall be deemed to be in effect on the first day of January, 1956.

**SECTION XXIII. FRANCHISE.**

Council may by ordinance grant permission to any person, firm or corporation to construct and operate a public utility in, on, under or above any public street or ground within the Municipality. It may prescribe in the ordinance the kind and quality of service or product to be furnished, the rate or rates to be charged therefor, and any other terms conducive to the public interest. Such grant may be amended or renewed in the same manner and subject to the provisions established by this section for original grants. Such grant, amendment or renewal shall be for such period of time as Council may determine, but shall not exceed a period of fifteen (15) years. (Amended June 7, 1983.)

**SECTION XXIV. INITIATIVE AND REFERENDUM.**

The rights of initiative and referendum upon ordinances and action taken by Council as prescribed in the Constitution of the State of Ohio, and as set forth in the revised laws of the State of Ohio, are hereby reserved to the people and shall be carried out according to the Constitution of the State of Ohio and the laws of the State of Ohio.

**SECTION XXV. RECALL.**

The electors shall have the power to remove from office by a recall election any elected officer of the Municipality. If an elected officer shall have served six months of his or her term, a petition demanding his or her removal may be filed with the Clerk of Council who shall note thereon the name and address of the person filing the petition and the date of such filing.

Such petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. Each part shall contain the name and office of the person whose removal is sought and statement in not more than two hundred (200) words of the grounds for the removal. Such petition shall be signed by at least that number of electors which equals 20 percent of the electors voting at the last regular municipal election. Within ten (10) days after the day on which such petition shall have been filed, the Clerk shall determine whether or not it meets the requirements hereof. If the Clerk shall find the petition insufficient, he or she shall promptly certify the particulars in which the petition is defective, deliver a copy of his or her certificate to the person who filed the petition with him or her, and make a record of such delivery. Such person shall be allowed a period of twenty (20) days after the day on which such delivery was made in which to make the petition sufficient. If the Clerk shall find the petition sufficient, he or she shall promptly so certify same to Council, and to the officer whose removal is sought, and shall make a record of such certification and the time thereof.

If such certification shall have been made, the Council shall thereupon order and fix a day for holding a recall election, not less than sixty (60), nor more than seventy-five (75) days after the date of the Clerk's certification of sufficiency to be held at the same time as any other general or special election held within such period: but if no such election be held within such period, at a special recall election to be held within the period aforesaid. Such recall elections shall be certified to the Board of Elections and held in accordance with the general laws of Ohio. At such recall election, the following question shall be placed on the ballot: "Shall (name of officer) be allowed to continue as (name of office)?", with provision on the ballot for voting affirmatively or negatively on such question. If a majority of the ballots cast at such election shall be voted affirmatively, such officer shall remain in office. If a majority of the ballots cast shall be voted negatively, such officer shall be considered removed, and his or her office shall be deemed vacant, and such vacancy shall be filled as provided in this Charter. The officer removed by such recall election shall not be eligible for appointment to the vacancy created thereby. (Amended November 4, 2014)

#### SECTION XXVI. PARTIAL INVALIDITY.

The determination that any section or part thereof of this Charter is invalid shall not invalidate or impair the force or effect of any other section or part thereof, except to the extent that such other section or part thereof is dependent for its operation upon the part declared invalid.

#### SECTION XXVII. EFFECT OF CHARTER.

The taking effect of this Charter shall not affect any pre-existing rights of this Municipality, nor any right or liability or pending suit or provision, either on behalf of or against the Municipality, nor any contract entered into by the Municipality, nor pending proceedings for the authorization of public improvements or the levy of assessments therefor.

#### SECTION XXVIII. CHARTER REVIEW COMMITTEE.

At the second meeting of Council in January, 2003, and each ten (10) years thereafter, a Charter Review Committee of eleven (11) members shall be appointed to study, appraise and evaluate the operation of this Charter. No later than the first Council meeting in March of the following year, the Committee shall submit to Council all recommendations with respect to changes or alterations of this Charter.

Council shall review any recommendations submitted by the Charter Review Committee and shall approve or disapprove each separate recommendation. Council thereafter shall submit to the electorate the changes or alterations it has approved, together with any other Charter issues Council determines to submit to the electorate, pursuant to Article XVIII, Paragraph 9, of the Constitution of the State of Ohio.

Council should endeavor to recruit as members of the Charter Review Committee persons representative of Oberlin's population. No more than two (2) members of the seated Council may serve on the Committee; if no Council member is appointed to serve as a member of the Committee, Council shall appoint at least one sitting member of Council to act as liaison between the Council and the Committee.

(Enacted November 8, 1994)

**SECTION XXIX.****REPRINTING OF CHARTER.**

Following any election at which any amendment to this Charter is adopted, the Clerk, with the approval of the Law Director and Council, may, prior to any reprinting or republication of this Charter, make such changes therein, including grammatical, syntactical, or stylistic changes, or changes to the numbers, titles, or arrangement of sections and subsections hereof, as may be necessary or desirable to maintain or enhance logic and consistency, but no such change shall in any way affect the substance or meaning of this Charter or any part thereof or amendment thereto.

In preparing the Charter for republication or reprinting after the general election of November 8, 1994, the Clerk shall make changes in the language of the Charter to remove any suggestion of discrimination on the basis of sex.

(Amended November 2, 2004)

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## 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

<b>301.01</b>	<b>Meaning of words and phrases.</b>	<b>301.26</b>	<b>Private road or driveway.</b>
<b>301.02</b>	<b>Agricultural tractor.</b>	<b>301.27</b>	<b>Public safety vehicle.</b>
<b>301.03</b>	<b>Alley.</b>	<b>301.28</b>	<b>Railroad.</b>
<b>301.031</b>	<b>Beacon; hybrid beacon.</b>	<b>301.29</b>	<b>Railroad sign or signal.</b>
<b>301.04</b>	<b>Bicycle; motorized bicycle.</b>	<b>301.30</b>	<b>Railroad train.</b>
<b>301.05</b>	<b>Bus.</b>	<b>301.31</b>	<b>Residence district.</b>
<b>301.06</b>	<b>Business district.</b>	<b>301.32</b>	<b>Right of way.</b>
<b>301.07</b>	<b>Commercial tractor.</b>	<b>301.321</b>	<b>Road service vehicle.</b>
<b>301.08</b>	<b>Controlled-access highway.</b>	<b>301.33</b>	<b>Roadway.</b>
<b>301.09</b>	<b>Crosswalk.</b>	<b>301.34</b>	<b>Safety zone.</b>
<b>301.10</b>	<b>Driver or operator.</b>	<b>301.35</b>	<b>School bus.</b>
<b>301.11</b>	<b>Emergency vehicle.</b>	<b>301.36</b>	<b>Semitrailer.</b>
<b>301.12</b>	<b>Explosives.</b>	<b>301.361</b>	<b>Shared-use path.</b>
<b>301.13</b>	<b>Expressway.</b>	<b>301.37</b>	<b>Sidewalk.</b>
<b>301.14</b>	<b>Flammable liquid.</b>	<b>301.38</b>	<b>State route.</b>
<b>301.15</b>	<b>Freeway.</b>	<b>301.39</b>	<b>Stop (when required).</b>
<b>301.16</b>	<b>Gross weight.</b>	<b>301.40</b>	<b>Stopping or standing.</b>
<b>301.161</b>	<b>Highway maintenance vehicle.</b>	<b>301.41</b>	<b>Stop intersection.</b>
<b>301.162</b>	<b>Highway traffic signal.</b>	<b>301.42</b>	<b>Street or highway;</b> <b>arterial street.</b>
<b>301.17</b>	<b>Intersection.</b>	<b>301.43</b>	<b>Through street or highway.</b>
<b>301.18</b>	<b>Laned street or highway.</b>	<b>301.44</b>	<b>Thruway.</b>
<b>301.181</b>	<b>Median.</b>	<b>301.45</b>	<b>Traffic.</b>
<b>301.19</b>	<b>Motorcycle.</b>	<b>301.46</b>	<b>Traffic control device.</b>
<b>301.20</b>	<b>Motor vehicle.</b>	<b>301.47</b>	<b>Traffic control signal.</b>
<b>301.201</b>	<b>Operate.</b>	<b>301.48</b>	<b>Trailer.</b>
<b>301.21</b>	<b>Park or parking.</b>	<b>301.49</b>	<b>Truck.</b>
<b>301.22</b>	<b>Pedestrian.</b>	<b>301.50</b>	<b>Urban district.</b>
<b>301.23</b>	<b>Person.</b>	<b>301.51</b>	<b>Vehicle.</b>
<b>301.24</b>	<b>Pole trailer.</b>	<b>301.52</b>	<b>Wheelchair, motorized.</b>
<b>301.25</b>	<b>Police officer.</b>		
<b>301.251</b>	<b>Predicate motor vehicle or</b> <b>traffic offense.</b>		

**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)

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**301.01 MEANING OF WORDS AND PHRASES.**

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

**301.02 AGRICULTURAL TRACTOR.**

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

**301.03 ALLEY.**

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

**301.031 BEACON; HYBRID BEACON.**

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

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

**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))



**301.05 BUS.**

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

**301.06 BUSINESS DISTRICT.**

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

**301.07 COMMERCIAL TRACTOR.**

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

**301.08 CONTROLLED-ACCESS HIGHWAY.**

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

**301.09 CROSSWALK.**

"Crosswalk" means:

- (a) That part of a roadway at intersections ordinarily included within the real or projected prolongation of property lines and curb lines or, in the absence of curbs, the edges of the traversable roadway;
  - (b) Any portion of a roadway at an intersection or elsewhere, distinctly indicated for pedestrian crossing by lines or other markings on the surface;
  - (c) Notwithstanding subsections (a) and (b) hereof, there shall not be a crosswalk where authorized signs have been placed indicating no crossing.
- (ORC 4511.01(LL))

**301.10 DRIVER OR OPERATOR.**

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

**301.11 EMERGENCY VEHICLE.**

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

**301.12 EXPLOSIVES.**

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

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

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

### **301.13 EXPRESSWAY.**

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

### **301.14 FLAMMABLE LIQUID.**

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

### **301.15 FREEWAY.**

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

### **301.16 GROSS WEIGHT.**

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

### **301.161 HIGHWAY MAINTENANCE VEHICLE.**

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

### **301.162 HIGHWAY TRAFFIC SIGNAL.**

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

### **301.17 INTERSECTION.**

"Intersection" means:

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

**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.  
(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.

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

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

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

(i) As used in this section:

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

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

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

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

(a) The driver of a motor vehicle, upon approaching a stationary public safety vehicle, emergency vehicle, road service vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle that is displaying the appropriate visual signals by means of flashing, oscillating or rotating lights, as prescribed in Section 337.16, shall do either of the following:

- (1) If the driver of the motor vehicle is traveling on a street or highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle, emergency vehicle, road service vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle.
- (2) If the driver is not traveling on a street or highway of a type described in subsection (a)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather and traffic conditions.

(b) This section does not relieve the driver of a public safety vehicle, emergency vehicle, road service vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06, or a highway maintenance vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(c) No person shall fail to drive a motor vehicle in compliance with subsection (a)(1) or (2) of this section when so required by subsection (a) of this section.

If an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour is being operated on a street or highway at a speed greater than twenty-five miles per hour and is towing, pulling or otherwise drawing a unit of farm machinery, the unit of farm machinery shall display a slow-moving vehicle emblem and a speed identification symbol that is the same as the speed identification symbol that is displayed on the agricultural tractor.

(h) When an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour is being operated on a street or highway at a speed greater than twenty-five miles per hour, the operator shall possess some documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate.

(i) As used in this section, "boat trailer" means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

(j) Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4513.11)

### **337.11 SPOTLIGHT AND AUXILIARY LIGHTS.**

(a) Any motor vehicle may be equipped with not more than one spotlight and every lighted spotlight shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle, nor more than 100 feet ahead of the vehicle.

(b) Any motor vehicle may be equipped with not more than three State approved auxiliary driving lights mounted on the front of the vehicle, which when used shall conform to State regulations.

(c) Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4513.12)

### **337.12 COWL, FENDER AND BACK-UP LIGHTS.**

(a) Any motor vehicle may be equipped with side cowl or fender lights or lights on each side thereof which shall emit a white or amber light without glare.

(b) Any motor vehicle may be equipped with back-up lights, either separately or in combination with another light. No back-up lights shall be continuously lighted when the motor vehicle is in forward motion.

(c) Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4513.13)

**337.13 DISPLAY OF LIGHTED LIGHTS.**

(a) At all times mentioned in Section 337.02 at least two State approved lighted lights shall be displayed conforming to State regulations, one near each side of the front of every motor vehicle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles. (ORC 4513.14)

(b) However, on a motorcycle, there shall be displayed at least one and not more than two lighted lights as required herein.

(c) Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4513.14)

**337.14 USE OF HEADLIGHT BEAMS.**

(a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in Section 337.02, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons, vehicles and substantial objects at a safe distance in advance of the vehicle, except that upon approaching an oncoming vehicle, the lights or beams shall be so aimed that the glaring rays are not projected into the eyes of the oncoming driver.

(b) Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4513.15)

**337.15 LIGHTS OF LESS INTENSITY ON SLOW-MOVING VEHICLES.**

(a) Any motor vehicle may be operated under the conditions specified in Section 337.02 when it is equipped with two lighted lights upon the front thereof capable of revealing persons and substantial objects seventy-five feet ahead in lieu of lights required in Section 337.13, provided that such vehicle shall not be operated at a speed in excess of twenty miles per hour.

(b) Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4513.16)

**337.16 NUMBER OF LIGHTS; LIMITATIONS ON FLASHING, OSCILLATING OR ROTATING LIGHTS.**

(a) Whenever a motor vehicle equipped with headlights also is equipped with any auxiliary lights or spotlight or any other light on the front thereof projecting a beam of an intensity greater than 300 candle power, not more than a total of five of any such lights on the front of a vehicle shall be lighted at any one time when the vehicle is upon a highway.

(b) Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights or auxiliary driving lights, that projects a beam of light of an intensity greater than 300 candle power, shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

(c) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing. This prohibition does not apply to emergency vehicles, road service vehicles servicing or towing a disabled vehicle, rural mail delivery vehicles, vehicles transporting preschool children as provided in Ohio R.C. 4513.182, highway maintenance vehicles, funeral hearses, funeral escort vehicles and similar equipment operated by the Department or local



authorities, which shall be equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating amber light, but shall not display a flashing, oscillating or rotating light of any other color, nor to vehicles or machinery permitted by Section 337.10 to have a flashing red light.

- (2) When used on a street or highway, farm machinery and vehicles escorting farm machinery may be equipped with and display a flashing, oscillating, or rotating amber light, and the prohibition contained in subsection (c)(1) hereof does not apply to such machinery or vehicles. Farm machinery also may display the lights described in Section 337.10.

(d) Except a person operating a public safety vehicle, as defined in Section 301.27, or a school bus, no person shall operate, move or park upon or permit to stand within the right of way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light; and except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the State or Municipality, operating a public safety vehicle when on duty, no person shall operate, move or park upon, or permit to stand within the right of way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.

(e) This section does not prohibit the use of warning lights required by law or the simultaneous flashing of turn signals on disabled vehicles or on vehicles being operated in unfavorable atmospheric conditions in order to enhance their visibility. This section also does not prohibit the simultaneous flashing of turn signals or warning lights either on farm machinery or vehicles escorting farm machinery, when used on a street or highway.

(f) Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4513.17)

### **337.165 VEHICLES TRANSPORTING PRESCHOOL CHILDREN.**

(a) No person shall operate any motor vehicle owned, leased or hired by a nursery school, kindergarten or day-care center, while transporting preschool children to or from such an institution, unless the motor vehicle is equipped with and displaying two amber flashing lights mounted on a bar attached to the top of the vehicle, and a sign bearing the designation "Caution-Children," which shall be attached to the bar carrying the amber flashing lights in such a manner as to be legible to persons both in front of and behind the vehicle. The lights and sign shall meet standards and specifications adopted by the Ohio Director of Public Safety pursuant to Ohio R.C. 4513.182.

(b) No person shall operate a motor vehicle displaying the lights and sign required by this section for any purpose other than the transportation of preschool children as provided in this section. (ORC 4513.182)

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

**337.17 FOCUS AND AIM OF HEADLIGHTS.**

(a) No person shall use any lights mentioned in Section 337.02 to 337.16, inclusive, upon any motor vehicle, trailer or semitrailer unless the lights are equipped, mounted and adjusted as to focus and aim in accordance with State regulations.

(b) The headlights on any motor vehicle shall comply with the headlamp color requirements contained in federal motor vehicle safety standard number 108, 49 C.F.R. 571.108. No person shall operate a motor vehicle in violation of this subsection.

(c) Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4513.19)

**337.18 MOTOR VEHICLE AND MOTORCYCLE BRAKES.**

(a) The following requirements govern as to brake equipment on vehicles:

- (1) Every motor vehicle, other than a motorcycle, when operated upon a street or highway, shall be equipped with brakes adequate to control the movement of and to stop and hold such motor vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, then on such motor vehicles manufactured or assembled after January 1, 1942, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.
- (2) Every motorcycle, when operated upon a street or highway, shall be equipped with at least one adequate brake, which may be operated by hand or by foot.
- (3) Every motorized bicycle shall be equipped with brakes meeting the rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4511.521.
- (4) When operated upon the streets or highways of this Municipality, the following vehicles shall be equipped with brakes adequate to control the movement of and to stop and to hold the vehicle designed to be applied by the driver of the towing motor vehicle from its cab, and also designed and connected so that, in case of a breakaway of the towed vehicle, the brakes shall be automatically applied:
  - A. Except as otherwise provided in this section, every trailer or semitrailer, except a pole trailer, with an empty weight of two thousand pounds or more, manufactured or assembled on or after January 1, 1942;
  - B. Every manufactured home or travel trailer with an empty weight of two thousand pounds or more, manufactured or assembled on or after January 1, 2001.
- (5) Every watercraft trailer with a gross weight or manufacturer's gross vehicle weight rating of three thousand pounds or more that is manufactured or assembled on or after January 1, 2008, shall have separate brakes equipped with hydraulic surge or electrically operated brakes on two wheels.
- (6) In any combination of motor-drawn trailers or semitrailers equipped with brakes, means shall be provided for applying the rearmost brakes in approximate synchronism with the brakes on the towing vehicle, and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost brakes; or both of the above means, capable of being used alternatively, may be employed.

**505.06 POISONING ANIMALS.**

(a) No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a farm animal, dog, cat, poultry or other domestic animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any of such animals, either upon his/her own lands or the lands of another.  
(ORC 959.03)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.  
(ORC 959.99(C); Ord. 86-65AC. Passed 11-3-86.)

**505.07 CRUELTY TO ANIMALS GENERALLY.**

(a) No person shall:

- (1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;
- (2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. This subsection (a)(2) does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, "shelter" means a man-made enclosure, windbreak, sunshade or natural windbreak or sunshade that is developed from the earth's contour, tree development or vegetation;
- (3) Carry or convey an animal in a cruel or inhuman manner;
- (4) Keep animals other than cattle, poultry or fowl, swine, sheep or goats in an enclosure without wholesome exercise and change of air, nor feed cows on food that produces impure or unwholesome milk;
- (5) Detain livestock in railroad cars or compartments longer than twenty-eight hours after they are so placed without supplying them with necessary food, water and attention, nor permit such livestock to be so crowded as to overlie, crush, wound or kill each other.

(b) Upon the written request of the owner or person in custody of any particular shipment of livestock, which written request shall be separate and apart from any printed bill of lading or other railroad form, the length of time in which such livestock may be detained in any cars or compartments without food, water and attention, may be extended to thirty-six hours without penalty therefor. This section does not prevent the dehorning of cattle.  
(ORC 959.13)

(c) Whoever violates this section is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this subsection, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal. (ORC 959.99)

**505.071 CRUELTY TO COMPANION ANIMALS.**

(a) As used in this section:

- (1) "Companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept. "Companion animal" does not include livestock or any wild animal.
- (2) "Cruelty", "torment" and "torture" have the same meanings as in Ohio R.C. 1717.01.
- (3) "Residential dwelling" means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.
- (4) "Practice of veterinary medicine" has the same meaning as in Ohio R.C. 4741.01.
- (5) "Wild animal" has the same meaning as in Ohio R.C. 1531.01.
- (6) "Federal animal welfare act" means the "Laboratory Animal Act of 1966", Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970", Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976", Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985", Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.
- (7) "Dog kennel" means an animal rescue for dogs that is registered under Ohio R.C. 956.06, a boarding kennel or a training kennel.

(b) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.

(c) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:

- (1) Commit any act by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
- (2) Omit any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
- (3) Commit any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
- (4) Needlessly kill the companion animal;
- (5) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment in any of those specified manners.

(d) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:

- (1) Commit any act by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

- (2) Omit any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable relief, against the companion animal;
  - (3) Commit any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
  - (4) Needlessly kill the companion animal;
  - (5) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment or confinement in any of those specified manners.
- (e) Subsections (b), (c) and (d) of this section do not apply to any of the following:
- (1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;
  - (2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Ohio R.C. Chapter 4741;
  - (3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;
  - (4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;
  - (5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Ohio R.C. Chapter 4741.  
(ORC 959.131)
- (f)
- (1) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree on a first offense. On each subsequent offense such person is guilty of a felony and shall be prosecuted under appropriate State law.
  - (2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
  - (3) Whoever violates subsection (d) hereof is guilty of a misdemeanor of the first degree.
  - (4)
    - A. A court may order a person who is convicted of or pleads guilty to a violation of this section to forfeit to an impounding agency, as defined in Ohio R.C. 959.132, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.
    - B. A court may order a person who is convicted of or pleads guilty to a violation of this section to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under Ohio R.C. 959.132.

- (5) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of this section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling. (ORC 959.99)

**505.08 NUISANCE CONDITIONS PROHIBITED.**

(a) No person shall keep or harbor any animal or fowl in the Municipality so as to create noxious or offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public.

(b) No person owning, keeping or harboring any animal, livestock or poultry shall permit such animal, livestock or poultry to dig, urinate, defecate or otherwise damage any public property or private property other than the subplot or parcel owned or occupied by such owner, keeper or harboring of such animal, livestock or poultry; provided that this prohibition shall not apply to property onto which such owner, keeper or harboring has the permission of the owner of the property to walk such animal, livestock or poultry, and also provided the person owning, keeping or harboring such animal, livestock or poultry immediately removes all feces deposited by such animal, livestock or poultry and disposes of same in a sanitary manner. A violation of this subsection is a minor misdemeanor.

(c) No person shall keep or harbor any animal, livestock or poultry within the Municipality which, by frequent and habitual howling, yelping, barking or other activity creates unreasonably loud and disturbing noises of such a character, intensity and duration as to disturb the peace and quiet of the community or as to annoy, disturb or endanger the comfort, repose or health of persons occupying property in the neighborhood.

(d) No person shall keep or harbor any animal, livestock or poultry in or about an animal shelter adjoining to or abutting upon any lot upon which another person resides or any street or highway, or so near thereto as to constitute a threat to the preservation of the health, safety or general welfare of the public. All places maintained for the harboring or keeping of an animal, livestock or poultry shall be maintained in a clean and sanitary condition free from rats, mice, filth, vermin, rubbish or collection of feces.

(e) No person owning, keeping or harboring any animal, livestock or poultry shall take, lead or carry such animal, livestock or poultry into any store or place of business, or permit or allow such animal, livestock or poultry to enter any store or place of business within the City except the office of a veterinarian or pet shop or other place of business for the purpose of obtaining services therein offered to such an animal, livestock or poultry, provided, however, this subsection shall not apply to a blind person accompanied by a "seeing eye" dog.

**CHAPTER 521**  
**Health, Safety and Sanitation**

521.01	Abandoned refrigerators and airtight containers.	521.07	Fences.
521.02	Venting of heaters and burners.	521.08	Littering and deposit of garbage, rubbish, junk, etc.
521.03	Barricades and warning lights; abandoned excavations.	521.09	Noxious or offensive odors.
521.04	Sidewalk obstructions; damage or injury.	521.10	Outdoor merchandise displays.
521.05	Improper drainage.	521.11	Nuclear weapon-free zone.
521.06	Removal of ice, snow and nuisances from sidewalks; repairs.	521.12	Public nuisances.
		521.13	Operations and byproducts of oil and gas extraction.
		521.99	Penalty.

**CROSS REFERENCES**

See sectional histories for similar State law  
Excavation liability - see Ohio R.C. 723.49 et seq.  
Removal of noxious weeds - see Ohio R.C. 731.51 et seq.  
Pollution of water supply - see Ohio R.C. 743.25  
Nuisances - see Ohio R.C. Ch. 3767  
Tampering with safety devices - see GEN. OFF. 541.04

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**521.01 ABANDONED REFRIGERATORS AND AIRTIGHT CONTAINERS.**

(a) No person shall abandon, discard, or knowingly permit to remain on premises under his/her control, in a place accessible to children, any abandoned or discarded icebox, refrigerator or other airtight or semiairtight container which has a capacity of one and one-half cubic feet or more and an opening of fifty square inches or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein. This section shall not apply to an icebox, refrigerator or other airtight or semiairtight container located in that part of a building occupied by a dealer, warehouseman or repairman. (ORC 3767.29)

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

**521.02 VENTING OF HEATERS AND BURNERS.**

(a) A brazier, salamander, space heater, room heater, furnace, water heater or other burner or heater using wood, coal, coke, fuel oil, kerosene, gasoline, natural gas, liquid petroleum gas or similar fuel, and tending to give off carbon monoxide or other harmful gases:

- (1) When used in living quarters, or in any enclosed building or space in which persons are usually present, shall be used with a flue or vent so designed, installed and maintained as to vent the products of combustion outdoors; except in storage, factory or industrial buildings which are provided with sufficient ventilation to avoid the danger of carbon monoxide poisoning;
- (2) When used as a portable or temporary burner or heater at a construction site, or in a warehouse, shed or structure in which persons are temporarily present, shall be vented as provided in subsection (a) hereof, or used with sufficient ventilation to avoid the danger of carbon monoxide poisoning.

(b) This section does not apply to domestic ranges, laundry stoves, gas logs installed in a fireplace with an adequate flue, or hot plates, unless the same are used as space or room heaters.

(c) No person shall negligently use, or, being the owner, person in charge, or occupant of premises, negligently permit the use of a burner or heater in violation of the standards for venting and ventilation provided in this section.

(d) Subsection (a) hereof does not apply to any kerosene-fired space or room heater that is equipped with an automatic extinguishing tip-over device, or to any natural gas-fired or liquid petroleum gas-fired space or room heater that is equipped with an oxygen depletion safety shutoff system, and that has its fuel piped from a source outside of the building in which it is located, that are approved by an authoritative source recognized by the State Fire Marshal in the State Fire Code adopted by him/her under Ohio R.C. 3737.82.

(e) The State Fire Marshal may make rules to ensure the safe use of unvented kerosene, natural gas or liquid petroleum gas heaters exempted from subsection (a) hereof when used in assembly buildings, business buildings, high hazard buildings, institutional buildings, mercantile buildings and type R-1 and R-2 residential buildings, as these groups of buildings are defined in rules adopted by the Board of Building Standards under Ohio R.C. 3781.10. No person shall negligently use, or, being the owner, person in charge or occupant of premises, negligently permit the use of a heater in violation of any rules adopted under this subsection.

(f) The State Fire Marshal may make rules prescribing standards for written instructions containing ventilation requirements and warning of any potential fire hazards that may occur in using a kerosene, natural gas or liquid petroleum gas heater. No person shall sell or offer for sale any kerosene, natural gas or liquid petroleum gas heater unless the manufacturer provides with the heater written instructions that comply with any rules adopted under this subsection.

(g) No product labeled as a fuel additive for kerosene heaters and having a flash point below 100 degrees fahrenheit or thirty-seven and eight-tenths degrees centigrade shall be sold, offered for sale or used in any kerosene space heater.



(f) Enforcement. The prohibitions in this section apply to corporations, partnerships and natural persons.

Each officer and member of the Board of Directors of any corporation who violates this section shall be held criminally liable under this section if such officer or director knowingly or intentionally participated in or contributed to the prohibited activity.

Each violation of this section shall be punishable by six months' imprisonment and/or five hundred dollars (\$500.00) fine. Each day such prohibited activity continues shall constitute a separate violation.

Any natural person, corporation or the City may enforce this section by appropriate civil action for declaratory or injunctive relief. Reasonable attorney fees and costs shall be awarded to a prevailing party.

If all or part of this section is held by a court of law to be inconsistent with any part of the City Charter, this ordinance or portion thereof shall prevail over the inconsistent part of the City Charter.

(g) Notification. Upon adoption of this section and annually thereafter, Council shall present a true copy of this section to the President of the United States, to the Premier of the Union of Soviet Socialist Republics, to the ambassadors of all nations at that time possessing nuclear weapons, to the Secretary General of the United Nations and to the Director of the International Atomic Energy Agency.

In addition, true copies of this section shall be sent to the Governor of the State of Ohio, to the United States Senators from Ohio, to the United States Representative representing the Thirteenth District and to our State Delegates.  
(Approved by voters 11-5-85.)

#### 521.12 PUBLIC NUISANCES.

(a) Notice to Abate; Compliance. No person shall suffer, permit or allow to exist within the City any act, thing or condition of a kind which has been or may hereafter be defined by ordinance as a public nuisance.

Whenever a public nuisance exists, the Community Services Officer shall cause the owner, tenant or person in charge of such property upon which such public nuisance exists to be served with a notice to abate the public nuisance on or before fifteen days after receipt of such notice. Notice, as described herein, shall consist of the mailing of such notice to the owner, tenant or person in charge of the property by registered or certified mail, return receipt requested, or by personal service or by posting the notice in a conspicuous place upon such property for a period of five days.

Whoever fails to comply with such notice shall be deemed guilty of a minor misdemeanor and each day of such noncompliance shall constitute a separate offense.

(b) Public Nuisance Defined. The following shall be deemed to constitute a public nuisance within the City:

- (1) The erection, continuance, use or maintenance of a building, structure or place for the exercise of a trade, employment or business, either upon public or private property, or the keeping or feeding of any animal which, by causing noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort or property of individuals or of the public;
- (2) The storage of a motor vehicle in an inoperative or unlicensed condition upon public or private property for more than fifteen days without being obscured from public view;

- (3) The storage of garbage and/or offal, which means and includes all refuse and waste of animals, fish, fowl, fruit and vegetable matter or accumulations in the use and preparation of food for the table, or which has been discarded and abandoned and is of no future use or value to the owner for domestic consumption, contrary to the rules and regulations of the Lorain County Board of Health;
- (4) The suffering, permitting, allowing to remain or maintaining of rubbish, refuse or junk, which includes but is not limited to wire, chips, shavings, bottles, broken glass, crockery, tin, cast or wooden ware, boxes, rags, weeds, paper, circulars, handbills, boots, shoes or ashes, or discarded or abandoned iceboxes, refrigerators, washing machines or other airtight or semi-airtight containers or any other waste material upon public or private property contrary to these Codified Ordinances or regulations of the Board of Health; and
- (5) The maintenance or allowance of building materials upon public or private property constitutes a public nuisance if such building materials, which include all residue from building construction and new building materials, are not removed or utilized in construction within thirty days after such materials are placed upon a premises. However, if construction is initiated upon such premises and such building materials are to be used in the construction, then such building materials shall be allowed to remain upon such premises for a period of time not to exceed thirty days after the completion of the construction. For the purpose of the prevention of rodents and other unsanitary conditions, any storage of building materials or deposit of the same upon any property shall consist of building materials being placed at least six inches off the ground at any time.

(c) Enforcement. Whenever any public nuisance exists, at the request of Council, the Law Director shall institute proceedings, either legal or equitable, that may be appropriate or necessary for the enforcement or abatement of the public nuisance. This section shall not relieve any person from criminal prosecution or punishment under these Codified Ordinances or any other criminal law enforced in the City.

(d) Remedy of City. If the owner or person having charge of any premises within the City upon which exists a public nuisance fails to comply with any notice established herein or fails to prohibit the existence of such public nuisance, the City has the authority to take whatever action is necessary to abate the public nuisance, including, but not limited to, entering upon any public or private property, and expending or furnishing labor and materials necessary to abate the public nuisance. All such expenses and costs shall be paid out of City funds appropriated therefor, and the City shall thereafter certify such expenses to the County Auditor. Such amounts shall thereupon be entered upon the tax duplicate and be a lien upon such lands from and after the date of entry thereon, to be collected as other taxes and remitted to the City upon collection.  
(Ord. 11-22 AC CMS. Passed 4-18-11.)

#### 521.13 OPERATIONS AND BYPRODUCTS OF OIL AND GAS EXTRACTION.

(a) Definitions.

- (1) "Chemical Trespass" shall mean the involuntary deposition of toxic or potentially toxic substances within a human body, natural community or ecosystem.

- (2) "Corporation" for purposes of this section, shall include any corporation, limited partnership, limited liability partnership, business trust, other business entity, or limited liability company organized under the laws of any state of the United States or under the laws of any country.
- (3) "Disposal" shall include, but not be limited to, the depositing, storage, treatment, recycling, injection, or by any other means, the distribution or depositing of brine, produced water, frack water, tailings or any other waste or by-product of corporate gas or oil extraction upon, into, or onto the land, waterways, air or any area within the jurisdiction of the City of Oberlin.
- (4) "Ecosystem" shall include, but not be limited to, wetlands, streams, rivers, aquifers, and other water systems, as well as naturally occurring habitats that sustain humans, wildlife, flora and fauna, and soil-dwelling or aquatic organisms.
- (5) "Extraction" shall mean the digging or drilling of a well for the purposes of exploring for, developing, or producing gas or oil or other hydrocarbons.
- (6) "Extraction, Production and Delivery Infrastructures" shall mean, but not be limited to, pipelines, processing facilities, waste storage structures, compressors, or storage and transportation facilities used to support the corporate extraction, production or distribution of gas or oil. The term shall not apply to the construction, maintenance or repair of infrastructures used for delivery to residential or business retail end-users of gas or oil.
- (7) "Gas" shall mean any gaseous substance, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature or pressure conditions, and/or gaseous components or vapors occurring in, or derived from, petroleum or so-called "natural" gas.
- (8) "Natural Communities" shall mean wildlife, flora, fauna, soil-dwelling and aquatic organisms, as well as humans and human communities that have established sustainable interdependencies within a proliferating and diverse matrix of organisms, within an ecosystem.
- (9) "Oil" shall mean any petroleum or fossil fuel substance in a liquid, slurry or viscous state found naturally within subterranean geological formations.
- (10) "Procurement of fresh water," for purposes of this law, shall include the drawing of fresh water from anywhere within the City of Oberlin or its jurisdiction for the purpose of exploring for, or extraction of, gas and oil.
- (11) "Toxic Substances and Potentially Toxic Substances," for purposes of this section, shall include chemicals or chemical compounds, sludge and waste, radioactive ores, mine tailings, millings, waste liquors and radioactive progeny, particulate matter and/or gasses, that have been found to cause adverse effects to animals, humans, or ecosystems, including those chemicals, chemical compounds, sources of radiation, and all other substances deemed to be mutagenic, neurotoxic, carcinogenic, teratogenic, reproductive or developmental toxicants, or any other toxic chemical or hazardous substance identified by the City of Oberlin Council by resolution subject to this section. The phrase shall specifically include, but shall not be limited to, frack water and materials used in, and resulting from, the extraction of gas or oil.

(b) Prohibitions.

- (1) It shall be unlawful for any corporation, or any director, officer, owner, or manager of a corporation to use a corporation, to engage in the extraction of gas or oil within the City of Oberlin, with the exception of gas and oil wells installed and operating at the time of enactment of this section, provided that the extraction of gas or oil from those existing wells does not involve any practice or process not previously used for the extraction of gas or oil from those wells at the time of the enactment of this section, and provided that those wells are capped securely when production ceases.
- (2) It shall be unlawful for any corporation, or any director, officer, owner, or manager of a corporation to use a corporation, to deposit, store or transport waste water, produced water, frack water, brine or other materials, chemicals or by-products used in the exploration for, or extraction of, gas or oil, within, upon or through the land, air or waters of the City of Oberlin.
- (3) It shall be unlawful for any corporation, or any director, officer, owner, or manager of a corporation to use a corporation, to engage in the siting of extraction, production and delivery infrastructures within the City of Oberlin.
- (4) Corporations, and persons using corporations, to engage in gas or oil extraction in a neighboring municipality, county or state shall be strictly liable for all harms caused to natural water sources, ecosystems, human and natural communities within the City of Oberlin and for the violation of the rights herein secured.
- (5) No permit, license, privilege or charter issued by any State or Federal agency, Commission or Board to any person or any corporation operating under a State charter, or any director, officer, owner, or manager of a corporation operating under a State charter, which would violate the prohibitions of this section or deprive any natural person, natural community, or ecosystem within the City of Oberlin of any rights, privileges, or immunities secured by this section, the Ohio Constitution, the United States Constitution, or other laws, shall be deemed valid within the City of Oberlin.

(c) Enforcement.

- (1) Any person or corporation that violates any prohibition of this section shall be guilty of a criminal offense and, upon conviction thereof, shall be sentenced to pay the maximum fine allowable under State law for that violation, and shall be imprisoned to the extent allowed by law. A separate offense shall arise for each day or portion thereof in which a violation occurs and for each section of this section found to be violated.
- (2) The City of Oberlin may also enforce this section through an action in equity. In such an action, the City of Oberlin shall be entitled to recover, without limitation, all costs of litigation, including, but not limited to, expert and attorney's fees.
- (3) Any natural person who is a resident of the City of Oberlin shall have the authority to enforce this section through an action in equity. In such an action, the resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

- (4) Any natural person who brings an action to secure or protect the rights of natural communities or ecosystems within the City of Oberlin shall bring that action in the name of the natural community or ecosystem in a court of competent jurisdiction. Damages shall be measured by the cost of restoring the natural community or ecosystem to its pre-damaged state, and shall be paid to the City of Oberlin or other applicable governmental entity, to be used exclusively for the full and complete restoration of the natural community or ecosystem. Any natural person or group of natural persons shall have standing to bring an action on behalf of affected natural communities or ecosystems, regardless of the lack of a property relationship between those persons and the affected communities or ecosystems.
- (5) Corporations in violation of the prohibitions enacted by this section, or seeking to engage in activities prohibited by this section, shall not have the rights of "persons" afforded by the United States and Ohio Constitutions, nor shall those corporations be afforded rights under the 1st or 5th Amendments to the United States Constitution or corresponding sections of the Ohio Constitution, nor shall those corporations be afforded the protections of the commerce or contracts clauses within the United States Constitution or corresponding sections of the Ohio Constitution.
- (6) Corporations in violation of the prohibitions enacted by this section, or seeking to engage in activities prohibited by this section, shall not possess the authority or power to enforce State or Federal preemptive law against the people of the City of Oberlin, or to challenge or overturn municipal ordinances adopted by the City of Oberlin, when that enforcement or challenge interferes with the rights asserted by this section or interferes with the authority of the Municipality to protect the health, safety, and welfare of the people or environment of the City of Oberlin.

(d) Amendment. Any attempts to use other units and levels of government to preempt, amend, alter, or overturn this section, or parts of this section, shall require the City Council to hold public meetings that explore the adoption of other measures that expand local control and the ability of the people of the City to protect their fundamental and inalienable right to self-government.

(e) Severability. The provisions of this Law are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part, or provision of this section is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the section. The People of Oberlin hereby declare that in the event of such a decision, and the determination that the court's ruling is legitimate, it would have enacted this Law even without the section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional.  
(Approved by voters 11-5-13.)

**521.99 PENALTY.**

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



- (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, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in Ohio R.C. 3113.31, shall note that knowledge or belief and the basis for it in the patient's or client's records.
- (2) Notwithstanding Ohio R.C. 4731.22, the 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; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.
- (2) The information would tend to incriminate a member of the actor's immediate family.
- (3) Disclosure of the information would amount to revealing a news source, privileged under Ohio R.C. 2739.04 or 2739.12.
- (4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as 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 533 Obscenity and Sex Offenses

533.01	Definitions.	533.091	Loitering to engage in solicitation.
533.02	Presumption of knowledge; actual notice and defense.	533.10	Prostitution.
533.03	Unlawful sexual conduct with a minor.	533.11	Disseminating matter harmful to juveniles.
533.04	Sexual imposition.	533.12	Deception to obtain matter harmful to juveniles.
533.05	Importuning.	533.13	Displaying matter harmful to juveniles.
533.06	Voyeurism.	533.14	Unlawful advertising of massage.
533.07	Public indecency.	533.99	Penalty.
533.08	Procuring.		
533.09	Soliciting.		

### CROSS REFERENCES

See sectional histories for similar State law  
 Complicity - see GEN. OFF. 501.10  
 Offensive conduct - see GEN. OFF. 509.03  
 Telephone harassment - see GEN. OFF. 537.10  
 Criminal trespass - see GEN. OFF. 541.05

### 533.01 DEFINITIONS.

As used in this chapter:

- (a) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.
- (b) "Sexual contact" means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if such person is a female, a breast, for the purpose of sexually arousing or gratifying either person.
- (c) "Sexual activity" means sexual conduct or sexual contact, or both.
- (d) "Prostitute" means a male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.
- (e) "Harmful to juveniles" means that quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement, or sado-masochistic abuse in any form to which all of the following apply:

- (1) The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex.
- (2) The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles.
- (3) The material or performance, when considered as a whole, lacks serious literary, artistic, political and scientific value for juveniles.
- (f) When considered as a whole, and judged with reference to ordinary adults, or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to such group, any material or performance is "obscene" if any of the following apply:
  - (1) Its dominant appeal is to prurient interest;
  - (2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement or nudity in a way which tends to represent human beings as mere objects of sexual appetite;
  - (3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty or brutality;
  - (4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way which inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral or artistic purpose;
  - (5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral or artistic purpose.
- (g) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (h) "Nudity" means the showing, representation or depiction of human male or female genitals, pubic area or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.
- (i) "Juvenile" means an unmarried person under the age of eighteen.

- (3) Except as otherwise provided in subsection (c)(3) of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.
- (4) Except as otherwise provided in subsection (c)(4) of this section, a violation of subsection (b)(1), (2) or (3) of this section is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (b)(1), (2) or (3) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (b)(1), (2) or (3) of this section is a felony and shall be prosecuted under appropriate state law.
- (5) A violation of subsection (b)(4) of this section is a misdemeanor of the first degree unless the offender previously has been convicted of or pleaded guilty to any violation of this section in which case the violation is a felony and shall be prosecuted under appropriate state law. (ORC 2907.09)

#### 533.08 PROCURING.

- (a) No person, knowingly and for gain, shall do either of the following:
  - (1) Entice or solicit another to patronize a prostitute or brothel;
  - (2) Procure a prostitute for another to patronize, or take or direct another at his or her request to any place for the purpose of patronizing a prostitute.
- (b) No person, having authority or responsibility over the use of premises, shall knowingly permit such premises to be used for the purpose of engaging in sexual activity for hire.

(c) Whoever violates this section is guilty of procuring. Except as otherwise provided in this subsection (c), procuring is a misdemeanor of the first degree. If the prostitute who is procured, patronized or otherwise involved in a violation of subsection (a)(2) of this section is under sixteen years of age at the time of the violation, regardless of whether the offender who violates subsection (a)(2) of this section knows the prostitute's age, or if a prostitute who engages in sexual activity for hire in premises used in violation of subsection (b) of this section is under sixteen years of age at the time of the violation, regardless of whether the offender who violates subsection (b) of this section knows the prostitute's age, procuring is a felony and shall be prosecuted under appropriate state law. If the prostitute who is procured, patronized or otherwise involved in a violation of subsection (a)(2) of this section is sixteen or seventeen years of age at the time of the violation or if a prostitute who engages in sexual activity for hire in premises used in violation of subsection (b) of this section is sixteen or seventeen years of age at the time of the violation, procuring is a felony and shall be prosecuted under appropriate state law. (ORC 2907.23)

#### 533.09 SOLICITING.

- (a) No person shall solicit another who is eighteen years of age or older to engage with such other person in sexual activity for hire.

(b) Whoever violates this section is guilty of soliciting, a misdemeanor of the third degree.

(c) If a person is convicted of or pleads guilty to a violation of any provision of this section or an attempt to commit a violation of any provision of this section, and if the person, in committing or attempting to commit the violation, was in, was on, or used a motor vehicle, the court, in addition to or independent of all other penalties imposed for the violation, shall impose upon the offender a class six suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of Ohio R.C. 4510.02. In lieu of imposing upon the offender the class six suspension, the court instead may require the offender to perform community service for a number of hours determined by the court.

(d) As used in this section, "sexual activity for hire" means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person. (ORC 2907.24)

#### 533.091 LOITERING TO ENGAGE IN SOLICITATION.

(a) No person, with purpose to solicit another to engage in sexual activity for hire and while in or near a public place, shall do any of the following:

- (1) Beckon to, stop or attempt to stop another;
- (2) Engage or attempt to engage another in conversation;
- (3) Stop or attempt to stop the operator of a vehicle or approach a stationary vehicle;
- (4) If the offender is the operator of or a passenger in a vehicle, stop, attempt to stop, beckon to, attempt to beckon to, or entice another to approach or enter the vehicle of which the offender is the operator or in which the offender is the passenger;
- (5) Interfere with the free passage of another.

(b) As used in this section:

- (1) "Vehicle" has the same meaning as in Ohio R.C. 4501.01.
- (2) "Public place" means any of the following:
  - A. A street, road, highway, thoroughfare, bikeway, walkway, sidewalk, bridge, alley, alleyway, plaza, park, driveway, parking lot, or transportation facility;
  - B. A doorway or entrance way to a building that fronts on a place described in subsection (b)(2)A. hereof;
  - C. A place not described in subsection (b)(2)A. or B. hereof that is open to the public.

(c) Whoever violates subsection (a) hereof is guilty of loitering to engage in solicitation, a misdemeanor of the third degree. (ORC 2907.241)

#### 533.10 PROSTITUTION.

(a) No person shall engage in sexual activity for hire.

(b) Whoever violates this section is guilty of prostitution, a misdemeanor of the third degree. (ORC 2907.25)

#### 533.11 DISSEMINATING MATTER HARMFUL TO JUVENILES.

(a) No person, with knowledge of its character or content, shall recklessly do any of the following:

- (1) Directly sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;
  - (2) Directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;
  - (3) While in the physical proximity of the juvenile or law enforcement officer posing as a juvenile, allow any juvenile or law enforcement officer posing as a juvenile to review or peruse any material or view any live performance that is harmful to juveniles.
- (b) The following are affirmative defenses to a charge under this section, that involves material or a performance that is harmful to juveniles but not obscene:
  - (1) The defendant is the parent, guardian or spouse of the juvenile involved.
  - (2) The juvenile involved, at the time of the conduct in question, was accompanied by the juvenile's parent or guardian who, with knowledge of its character, consented to the material or performance being furnished or presented to the juvenile.
  - (3) The juvenile exhibited to the defendant or the defendant's agent or employee a draft card, driver's license, birth certificate, marriage license, or other official or apparently official document purporting to show that the juvenile was eighteen years of age or over or married, and the person to whom that document was exhibited did not otherwise have reasonable cause to believe that the juvenile was under the age of eighteen and unmarried.
- (c)
  - (1) It is an affirmative defense to a charge under this section, involving material or a performance that is obscene or harmful to juveniles, that the material or performance was furnished or presented for a bona fide medical, scientific, educational, governmental, judicial or other proper purpose, by a physician, psychologist, sociologist, scientist, teacher, librarian, clergyman, prosecutor, judge or other proper person.
  - (2) Except as provided in subsection (b)(3) hereof, mistake of age is not a defense to a charge under this section.
- (d)
  - (1) A person directly sells, delivers, furnishes, disseminates, provides, exhibits, rents, or presents or directly offers or agrees to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present material or a performance to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section by means of an electronic method of remotely transmitting information if the person knows or has reason to believe that the person receiving the information is a juvenile or the group of persons receiving the information are juveniles.
  - (2) A person remotely transmitting information by means of a method of mass distribution does not directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present or directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present the material or performance in question to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section if either of the following applies:

- A. The person has inadequate information to know or have reason to believe that a particular recipient of the information or offer is a juvenile.
- B. The method of mass distribution does not provide the person the ability to prevent a particular recipient from receiving the information.

(e) If any provision of this section, or the application of any provision of this section to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this section or related sections that can be given effect without the invalid provision or application. To this end, the provisions are severable.

(f) Whoever violates this section is guilty of disseminating matter harmful to juveniles. If the material or performance involved is harmful to juveniles, except as otherwise provided in this subsection, a violation of this section is a misdemeanor of the first degree. If the material or performance involved is obscene, a violation of this section is a felony and shall be prosecuted under appropriate State law. (ORC 2907.31)

#### 533.12 DECEPTION TO OBTAIN MATTER HARMFUL TO JUVENILES.

(a) No person, for the purpose of enabling a juvenile to obtain any material or gain admission to any performance which is harmful to juveniles shall do either of the following:

- (1) Falsely represent that he/she is the parent, guardian or spouse of such juvenile;
- (2) Furnish such juvenile with any identification or document purporting to show that such juvenile is eighteen years of age or over or married.

(b) No juvenile, for the purpose of obtaining any material or gaining admission to any performance which is harmful to juveniles, shall do either of the following:

- (1) Falsely represent that he/she is eighteen years of age or over or married;
- (2) Exhibit any identification or document purporting to show that he/she is eighteen years of age or over or married.

(c) Whoever violates this section is guilty of deception to obtain matter harmful to juveniles, a misdemeanor of the second degree. A juvenile who violates subsection (b) hereof shall be adjudged an unruly child, with such disposition of the case as may be appropriate under Ohio R.C. Chapter 2151. (ORC 2907.33)

#### 533.13 DISPLAYING MATTER HARMFUL TO JUVENILES.

(a) No person who has custody, control or supervision of a commercial establishment, with knowledge of the character or content of the material involved, shall display at the establishment any material that is harmful to juveniles and that is open to view by juveniles as part of the invited general public.

(b) It is not a violation of subsection (a) hereof if the material in question is displayed by placing it behind "blinder racks" or similar devices that cover at least the lower two-thirds of the material, if the material in question is wrapped or placed behind the counter, or if the material in question otherwise is covered or located so that the portion that is harmful to juveniles is not open to the view of juveniles.

(c) Whoever violates this section is guilty of displaying matter harmful to juveniles, a misdemeanor of the first degree. Each day during which the offender is in violation of this section constitutes a separate offense. (ORC 2907.311)

**533.14 UNLAWFUL ADVERTISING OF MASSAGE.**

(a) No person, by means of a statement, solicitation, or offer in a print or electronic publication, sign, placard, storefront display, or other medium, shall advertise massage, relaxation massage, any other massage technique or method, or any related service, with the suggestion or promise of sexual activity.

(b) Whoever violates this section is guilty of unlawful advertising of massage, a misdemeanor of the first degree.

(c) Nothing in this section prevents the legislative authority of a municipal corporation or township from enacting any regulation of the advertising of massage further than and in addition to the provisions of subsections (a) and (b) of this section.  
(ORC 2927.17)

**533.99 PENALTY.**

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





**CHAPTER 537**  
**Offenses Against Persons**

537.01	Negligent homicide.	537.16	Illegal distribution of cigarettes, other tobacco products or alternate nicotine products.
537.02	Vehicular homicide and manslaughter.	537.17	Criminal child enticement.
537.021	Vehicular assault in a construction zone.	537.18	Contributing to unruliness or delinquency of a child.
537.03	Assault.	537.19	Child stealing.
537.04	Negligent assault.	537.20	Nonsupport of dependents.
537.05	Aggravated menacing.	537.21	Interference with custody.
537.051	Menacing by stalking.	537.22	Safety of crowds attending live entertainment performances.
537.06	Menacing.	537.23	Hazing.
537.07	Endangering children.	537.24	Intimidation in connection with housing.
537.08	Unlawful restraint.	537.25	Failing to provide for a functionally impaired person.
537.09	Coercion.	537.99	Penalty.
537.10	Telecommunication harassment.		
537.11	Threatening or harassing telephone calls.		
537.12	Misuse of 9-1-1 system.		
537.13	Adulterating of or furnishing adulterated food or confection.		
537.14	Domestic violence.		
537.15	Temporary protection order.		

**CROSS REFERENCES**

See sectional histories for similar State law

Physical harm to persons defined - see GEN. OFF. 501.01(c), (e)

Fighting; provoking violent response - see GEN. OFF. 509.03

**537.01 NEGLIGENT HOMICIDE.**

(a) No person shall negligently cause the death of another or the unlawful termination of another's pregnancy by means of a deadly weapon or dangerous ordnance as defined in Section 549.01.

(b) Whoever violates this section is guilty of negligent homicide, a misdemeanor of the first degree. (ORC 2903.05)

**537.02 VEHICULAR HOMICIDE AND MANSLAUGHTER.**

(a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause the death of another or the unlawful termination of another's pregnancy in any of the following ways:

(1) A. Negligently;

- B. As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this subsection applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) of this section.
- (2) As the proximate result of committing a violation of any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor.
- (b) (1) Whoever violates subsection (a)(1) of this section is guilty of vehicular homicide. Except as otherwise provided in this subsection, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide is a felony and shall be prosecuted under appropriate State law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter or assault offense. The court shall impose a mandatory jail term on the offender when required by Ohio R.C. 2903.06(E).
- (2) Whoever violates subsection (a)(2) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this subsection, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.

- (15) "Court official or employee" means any official or employee of a court created under the constitution or statutes of this State or of a United States court located in this State.
- (16) "Judge" means a judge of a court created under the constitution or statutes of this State or of a United States court located in this State.
- (17) "Magistrate" means an individual who is appointed by a court of record of this State and who has the powers and may perform the functions specified in Civil Rule 53, Criminal Rule 19, or Juvenile Rule 40, or an individual who is appointed by a United States court located in this State who has similar powers and functions.
- (18) "Prosecutor" has the same meaning as in Ohio R.C. 2935.01.
- (19) A. "Hospital" means, subject to subsection (d)(19)B. of this section, an institution classified as a hospital under Ohio R.C. 3701.01 in which are provided to patients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care or a hospital operated by a health maintenance organization.  
B. "Hospital" does not include any of the following:
  - 1. A facility licensed under Ohio R.C. Chapter 3721, a health care facility operated by the Department of Mental Health or the Department of Developmental Disabilities, a health maintenance organization that does not operate a hospital, or the office of any private, licensed health care professional, whether organized for individual or group practice;
  - 2. An institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under Section 501 of the "Internal Revenue Code of 1986", 100 Stat. 2085, 26 U.S.C. 1, as amended, and providing twenty-four-hour nursing care pursuant to the exemption in division (E) of Ohio R.C. 4723.32 from the licensing requirements of Ohio R.C. Chapter 4723.
- (20) "Health maintenance organization" has the same meaning as in Ohio R.C. 3727.01. (ORC 2903.13)

#### 537.04 NEGLIGENT ASSAULT.

- (a) No person shall negligently, by means of a deadly weapon or dangerous ordnance as defined in Section 549.01 cause physical harm to another or to another's unborn.
- (b) Whoever violates this section is guilty of negligent assault, a misdemeanor of the third degree. (ORC 2903.14)

**537.05 AGGRAVATED MENACING.**

(a) No person shall knowingly cause another to believe that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(b) Whoever violates this section is guilty of aggravated menacing. Except as otherwise provided in this subsection (b), aggravated menacing is a misdemeanor of the first degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, aggravated menacing is a felony and shall be prosecuted under appropriate State law.

(c) As used in this section, "organization" includes an entity that is a governmental employer. (ORC 2903.21)

**537.051 MENACING BY STALKING.**

(a) (1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's mental distress, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(2) No person, through the use of any 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.
- C. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender trespassed on the land or premises where the victim lives, is employed, or attends school, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message trespassed on the land or premises where the victim lives, is employed, or attends school.
- D. The victim of the offense is a minor.
- E. The offender has a history of violence toward the victim or any other person or a history of other violent acts toward the victim or any other person.
- F. While committing the offense under subsection (a)(1) of this section or a violation of subsection (a)(3) of this section is based on conduct in violation of subsection (a)(1) of this section, the offender had a deadly weapon on or about the offender's person or under the offender's control. Subsection (b)(2)F. of this section does not apply in determining the penalty for a violation of subsection (a)(2) of this section or a violation of subsection (a)(3) of this section based on conduct in violation of subsection (a)(1) of this section.
- G. At the time of the commission of the offense, the offender was the subject of a protection order issued under Ohio R.C. 2903.213 or 2903.214, regardless of whether the person to be protected under the order is the victim of the offense or another person.
- H. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that premises, or as a result of an offense committed under subsection (a)(2) of this section, or an offense committed under subsection (a)(3) of this section based on a violation of subsection (a)(2) of this section, a third person induced by the offender's posted message caused serious physical harm to that premises, that real property, or any personal property on that premises.
- I. Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness.

- (3) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities, or duties, menacing by stalking is a felony and shall be prosecuted under appropriate State law.

(c) Ohio R.C. 2919.271 applies in relation to a defendant charged with a violation of this section.

(d) As used in this section:

- (1) "Pattern of conduct" means two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, or two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, directed at one or more persons employed by or belonging to the same corporation, association, or other organization. Actions or incidents that prevent, obstruct, or delay the performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's, or emergency facility person's official capacity, or the posting of messages or receipts of information or data through the use of an electronic method of remotely transferring information, including, but not limited to, a computer, computer network, computer program, computer system, or telecommunications device, may constitute a "pattern of conduct".
- (2) "Mental distress" means any of the following:
- A. Any mental illness or condition that involves some temporary substantial incapacity;
  - B. Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.
- (3) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
- (4) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
- (5) "Public official" has the same meaning as in Ohio R.C. 2921.01.
- (6) "Computer", "computer network", "computer program", "computer system" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
- (7) "Post a message" means transferring, sending, posting, publishing, disseminating or otherwise communicating, or attempting to transfer, send, post, publish, disseminate or otherwise communicate, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another, or while impersonating another.

- (8) "Third person" means, in relation to conduct as described in subsection (a)(2) of this section, an individual who is neither the offender nor the victim of the conduct.
- (9) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.
- (10) "Organization" includes an entity that is a governmental employer.

(e) The Municipality does not need to prove in a prosecution under this section that a person requested or received psychiatric treatment, psychological treatment, or other mental health services in order to show that the person was caused mental distress as described in subsection (d)(2)B. of this section.

- (f)
  - (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section.
  - (2) Subsection (f)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.
  - (3) Subsection (f)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature. (ORC 2903.211)

#### 537.06 MENACING.

(a) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(b) Whoever violates this section is guilty of menacing. Except as otherwise provided in this subsection (b), menacing is a misdemeanor of the fourth degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, menacing is a felony and shall be prosecuted under appropriate State law.

(c) As used in this section, "organization" includes an entity that is a governmental employer. (ORC 2903.22)

#### 537.07 ENDANGERING CHILDREN.

(a) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection or support. It is not a violation of a duty of care, protection or support under this subsection when the parent, guardian, custodian or person having custody or control of a child treats the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

(b) No person shall abuse a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age.

(c) (1) No person shall operate a vehicle in violation of Section 333.01(a) of the Traffic Code when one or more children under eighteen years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of subsection (c) hereof and a violation of Section 333.01(a) of the Traffic Code that constitutes the basis of the charge of the violation of subsection (c) hereof. For purposes of Ohio R.C. 4511.191 to 4511.197 and all related provisions of law, a person arrested for a violation of subsection (c) hereof shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(2) As used in subsection (c) hereof:

A. "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.

B. "Vehicle" has the same meaning as in Ohio R.C. 4511.01.

(d) Whoever violates this section is guilty of endangering children.

(1) Whoever violates subsection (a) or (b) hereof is guilty of a misdemeanor of the first degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section, Ohio R.C. 2919.22 or of any offense involving neglect, abandonment, contributing to the delinquency of or physical abuse of a child, endangering children is a felony and shall be prosecuted under appropriate State law.

(2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. Endangering children is a felony and shall be prosecuted under appropriate State law if either of the following applies:

A. The violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under Ohio R.C. 2919.22 or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child.



- B. The violation results in serious physical harm to the child involved and the offender previously has been convicted of a violation of Ohio R.C. 2919.22(C) or subsection (c) hereof, Ohio R.C. 2903.06, or 2903.08, Section 2903.07 as it existed prior to March 23, 2000, or Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section.
- (3) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (d)(2) hereof, or pursuant to any other provision of law, the court also may impose upon the offender any of the sanctions provided under Ohio R.C. 2919.22(E)(5)(d).
- (e)
  - (1) If a person violates subsection (c) hereof and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of subsection (c) hereof for each of the children, but the court may sentence the offender for only one of the violations.
  - (2) A. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, both of the following apply:
    - 1. For purposes of the provisions of the Traffic Code penalty that set forth the penalties and sanctions for a violation of Section 333.01(a) of the Traffic Code, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute a violation of Section 333.01(a) of the Traffic Code.
    - 2. For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code and that is not described in subsection (e)(2)A.1. hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall constitute a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code.
  - B. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof and the person also is convicted of or pleads guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code, a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code. (ORC 2919.22)

#### 537.08 UNLAWFUL RESTRAINT.

- (a) No person, without privilege to do so, shall knowingly restrain another of the other person's liberty.
- (b) No person, without privilege to do so and with a sexual motivation, shall knowingly restrain another of the other person's liberty.

(c) Whoever violates this section is guilty of unlawful restraint, a misdemeanor of the third degree.

(d) As used in this section, "sexual motivation" has the same meaning as in Ohio R.C. 2971.01. (ORC 2905.03)

#### 537.09 COERCION.

(a) No person, with purpose to coerce another into taking or refraining from action concerning which the other person has a legal freedom of choice, shall do any of the following:

- (1) Threaten to commit any offense;
- (2) Utter or threaten any calumny against any person;
- (3) Expose or threaten to expose any matter tending to subject any person to hatred, contempt or ridicule, to damage any person's personal or business repute, or to impair any person's credit;
- (4) Institute or threaten criminal proceedings against any person;
- (5) Take or withhold, or threaten to take or withhold official action, or cause or threaten to cause official action to be taken or withheld.

(b) Subsections (a)(4) and (5) hereof shall not be construed to prohibit a prosecutor or court from doing any of the following in good faith and in the interest of justice:

- (1) Offering or agreeing to grant, or granting immunity from prosecution pursuant to Ohio R.C. 2945.44;
- (2) In return for a plea of guilty to one or more offenses charged or to one or more other or lesser offenses, or in return for the testimony of the accused in a case to which the accused is not a party, offering or agreeing to dismiss, or dismissing one or more charges pending against an accused, or offering or agreeing to impose, or imposing a certain sentence or modification of sentence;
- (3) Imposing community control sanction on certain conditions, including without limitation requiring the offender to make restitution or redress to the victim of the offense.

(c) It is an affirmative defense to a charge under subsection (a)(3), (4) or (5) hereof that the actor's conduct was a reasonable response to the circumstances that occasioned it, and that the actor's purpose was limited to any of the following:

- (1) Compelling another to refrain from misconduct or to desist from further misconduct;
- (2) Preventing or redressing a wrong or injustice;
- (3) Preventing another from taking action for which the actor reasonably believed the other person to be disqualified;
- (4) Compelling another to take action that the actor reasonably believed the other person to be under a duty to take.

(d) Whoever violates this section is guilty of coercion, a misdemeanor of the second degree.

(e) As used in this section:

- (1) "Threat" includes a direct threat and a threat by innuendo.
- (2) "Community control sanction" has the same meaning as in Ohio R.C. 2929.01. (ORC 2905.12)

- (5) Except as otherwise provided in subsection (d)(3) or (4) of this section, if the offender knew that the victim of the violation was pregnant at the time of the violation, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate State law, and a violation of subsection (c) of this section is a misdemeanor of the third degree.

(e) Notwithstanding any provision of law to the contrary, no court or unit of local government shall charge any fee, cost, deposit, or money in connection with the filing of charges against a person alleging that the person violated this section or in connection with the prosecution of any charges so filed.

(f) As used in this section:

(1) "Family or household member" means any of the following:

A. Any of the following who is residing or has resided with the offender:

1. A spouse, a person living as a spouse or a former spouse of the offender;
2. A parent, a foster parent or a child of the offender, or another person related by consanguinity or affinity to the offender;
3. A parent, or a child of a spouse, person living as a spouse, or former spouse of the offender; or another person related by consanguinity or affinity to a spouse, person living as a spouse or former spouse of the offender.

B. The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.

(2) "Person living as a spouse" means a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question. (ORC 2919.25)

(g) The same relief available under the Ohio Revised Code for filing a complaint for violation of Ohio R.C. 2919.25 shall be available for filing a complaint for violation of this section.

#### 537.15 TEMPORARY PROTECTION ORDER.

(a) No person shall recklessly violate the terms of any of the following:

- (1) A protection order issued or consent agreement approved pursuant to Ohio R.C. 2919.26 or 3113.31;
- (2) A protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214;
- (3) A protection order issued by a court of another state.

- (b) (1) Whoever violates this section is guilty of violating a protection order.
- (2) Except as otherwise provided in subsection (b)(3) of this section, violating a protection order is a misdemeanor of the first degree.
- (3) If the offender previously has been convicted of, pleaded guilty to or been adjudicated a delinquent child for a violation of a protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214, two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211 that involved the same person who is the subject of the protection order or consent agreement, or one or more violations of this section, violating a protection order is a felony and shall be prosecuted under appropriate state law.

- (4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony and shall be prosecuted under appropriate state law.
- (5) If the protection order violated by the offender was an order issued pursuant to Ohio R.C. 2151.34 or 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this subsection that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device. If the court determines that the offender is indigent and subject to the maximum amount allowable and the rules promulgated by the Attorney General under Ohio R.C. 2903.214, the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device may be paid out of funds from the reparations fund created pursuant to Ohio R.C. 2743.191. The total amount paid from the reparations fund created pursuant to Ohio R.C. 2743.191 for electronic monitoring under this section and Ohio R.C. 2151.34 and 2903.214 shall not exceed three hundred thousand dollars per year.

(c) It is an affirmative defense to a charge under subsection (a)(3) of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith and credit by a court of this State or that it is not entitled to full faith and credit under 18 U.S.C. 2265(c).

(d) As used in this section, "protection order issued by a court of another state" means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition or motion filed by or on behalf of a person seeking protection. "Protection order issued by a court of another state" does not include an order for support or for custody of a child. (ORC 2919.27)

#### 537.16 ILLEGAL DISTRIBUTION OF CIGARETTES, OTHER TOBACCO PRODUCTS, OR ALTERNATE NICOTINE PRODUCTS.

(a) As used in this section:

- (1) "Age verification" means a service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is eighteen years of age or older.
- (2) A. "Alternative nicotine product" means, subject to subsection (a)(2)B. of this section, an electronic cigarette or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving or inhaling.

- B. "Alternative nicotine product" does not include any of the following:
1. Any cigarette or other tobacco product;
  2. Any product that is a "drug" as that term is defined in 21 U.S.C. 321(g)(1);
  3. Any product that is a "device" as that term is defined in 21 U.S.C. 321(h);
  4. Any product that is a "combination product" as described in 21 U.S.C. 353(g).
- (3) "Child" has the same meaning as in Ohio R.C. 2151.011.
- (4) "Cigarette" includes clove cigarettes and hand-rolled cigarettes.
- (5) "Distribute" means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.
- (6) A. "Electronic cigarette" means, subject to subsection (a)(6)B. of this section, any electronic product or device that produces a vapor that delivers nicotine or any other substance to the person inhaling from the device to simulate smoking and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo or electronic pipe.
- B. "Electronic cigarette" does not include any item, product or device described in subsections (a)(2)B.1. to 4. of this section.
- (7) "Proof of age" means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under Ohio R.C. 4507.50 to 4507.52 that shows that a person is eighteen years of age or older.
- (8) "Tobacco product" means any product that is made from tobacco, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco or snuff.
- (9) "Vending machine" has the same meaning as "coin machine" in Ohio R.C. 2913.01.

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

- (1) Give, sell or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any child;
- (2) Give away, sell or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a sign stating that giving, selling or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under eighteen years of age is prohibited by law;
- (3) Knowingly furnish any false information regarding the name, age or other identification of any child with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that child;
- (4) Manufacture, sell or distribute in this state any pack or other container of cigarettes containing fewer than twenty cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;

- (5) Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;
  - (6) Give, sell or otherwise distribute alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification.
- (c) No person shall sell or offer to sell cigarettes, other tobacco products or alternative nicotine products by or from a vending machine, except in the following locations:
  - (1) An area within a factory, business, office, or other place not open to the general public;
  - (2) An area to which children are not generally permitted access;
  - (3) Any other place not identified in subsection (c)(1) or (2) of this section, upon all of the following conditions:
    - A. The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes, other tobacco product and alternative nicotine product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway or outer-waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.
    - B. The vending machine is inaccessible to the public when the place is closed.
- (d) The following are affirmative defenses to a charge under subsection (b)(1) of this section:
  - (1) The child was accompanied by a parent, spouse who is eighteen years of age or older, or legal guardian of the child.
  - (2) The person who gave, sold or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a child under subsection (b)(1) of this section is a parent, spouse who is eighteen years of age or older, or legal guardian of the child.
- (e) It is not a violation of subsection (b)(1) or (2) of this section for a person to give or otherwise distribute to a child cigarettes, other tobacco products, alternative nicotine products or papers used to roll cigarettes while the child is participating in a research protocol if all of the following apply:
  - (1) The parent, guardian or legal custodian of the child has consented in writing to the child participating in the research protocol;
  - (2) An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol;
  - (3) The child is participating in the research protocol at the facility or location specified in the research protocol.
- (f) (1) Whoever violates subsection (b)(1), (2), (4), (5) or (6) or (c) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this subsection, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (b)(1), (2), (4), (5) or (6) or (c) of this section, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

- (2) Whoever violates subsection (b)(3) of this section is guilty of permitting children to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this subsection, permitting children to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (b)(3) of this section, permitting children to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

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

#### 537.17 CRIMINAL CHILD ENTICEMENT.

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

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

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

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

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

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

(f) As used in this section:

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

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



- (ii) "Police dog or horse" has the same meaning as in Ohio R.C. 2921.321.
- (jj) "Anhydrous ammonia" is a compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described in this subsection. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH<sub>3</sub>). Anhydrous ammonia by weight is fourteen parts nitrogen to three parts hydrogen, which is approximately eighty-two per cent nitrogen to eighteen per cent hydrogen.
- (kk) "Assistance dog" has the same meaning as in Ohio R.C. 955.011.
- (ll) "Active duty service member" means any member of the armed forces of the United States performing active duty under Title 10 of the United States Code. (ORC 2913.01)

#### 545.02 DETERMINING PROPERTY VALUE IN THEFT OFFENSE.

(a) If more than one item of property or service is involved in a theft offense, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property or services involved in the offense.

- (b) (1) When a series of offenses under Section 545.05, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05, 545.06, or 545.08, 545.10(b)(1) or (2), or Section 545.15 or 545.20 involving a victim who is an elderly person or disabled adult, is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense. When a series of offenses under Section 545.05, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Sections 545.05 or 545.15 involving a victim who is an active duty service member or spouse of an active duty service member is committed by the offender in the offender's same employment, capacity or relationship to another, all of those offenses shall be tried as a single offense. The value of the property or services involved in the series of offenses for the purpose of determining the value is the aggregate value of all property and services involved in all offenses in the series.
- (2) If an offender commits a series of offenses under Section 545.05 that involves a common course of conduct to defraud multiple victims, all of the offenses may be tried as a single offense. If an offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05, 545.06 or 545.08, Section 545.10(b)(1) or (2), or Section 545.15 or 545.20, whether committed against one victim or more than one victim, involving a victim who is an elderly person or disabled adult, pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05 or 545.15, whether committed against one victim or more than one victim, involving a victim who is an active duty service member or spouse of an active duty service member pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property and services involved in all of the offenses in the course of conduct.

- (3) In prosecuting a single offense under subsection (b)(1) or (2), it is not necessary to separately allege and prove each offense in the series. Rather, it is sufficient to allege and prove that the offender, within a given span of time, committed one or more theft offenses in the offender's same employment, capacity, or relationship to another as described in subsection (b)(1) of this section or that involve a common course of conduct to defraud multiple victims or a scheme or course of conduct as described in subsection (b)(2) of this section. While it is not necessary to separately allege and prove each offense in the series in order to prosecute a single offense under subsection (b)(1) or (2) hereof, it remains necessary in prosecuting them as a single offense to prove the aggregate value of the property or services in order to meet the requisite statutory offense level sought by the prosecution.

(c) The following criteria shall be used in determining the value of property or services involved in a theft offense:

- (1) The value of an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that has intrinsic worth to its owner and that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, is the amount that would compensate the owner for its loss.
- (2) The value of personal effects and household goods, and of materials, supplies, equipment and fixtures used in the profession, business, trade, occupation or avocation of its owner, which property is not covered under subsection (c)(1) hereof, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing the property with new property of like kind and quality.
- (3) The value of any real or personal property that is not covered under subsections (c)(1) or (2) hereof, and the value of services, is the fair market value of the property or services. As used in this section, "fair market value" is the money consideration that a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.

(d) Without limitation on the evidence that may be used to establish the value of property or services involved in a theft offense:

- (1) When the property involved is personal property held for sale at wholesale or retail, the price at which the property was held for sale is prima-facie evidence of its value.
- (2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest market quotation prior to the offense, is prima-facie evidence of the value of the security or commodity.
- (3) When the property involved is livestock, poultry or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima-facie evidence of the value of the livestock, poultry or products.
- (4) When the property involved is a negotiable instrument, the face value is prima-facie evidence of the value of the instrument.

- (5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the instrument less any payment necessary to receive the property, is prima-facie evidence of the value of the instrument.
- (6) When the property involved is a ticket of admission, ticket for transportation, coupon, token or other instrument entitling the holder or bearer to receive property or services, the face value or, if there is no face value, the value of the property or services that may be received by the instrument, is prima-facie evidence of the value of the instrument.
- (7) When the services involved are gas, electricity, water, telephone, transportation, shipping or other services for which the rate is established by law, the duly established rate is prima-facie evidence of the value of the services.
- (8) When the services involved are services for which the rate is not established by law, and the offender has been notified prior to the offense of the rate for the services, either in writing or orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in the notice is prima-facie evidence of the value of the services. (ORC 2913.61)

#### 545.03 PROPERTY EXCEPTIONS AS FELONY OFFENSE.

Regardless of the value of the property involved, and regardless of whether the offender has previously been convicted of a theft offense, the provisions of Section 545.05 or 545.18 do not apply if the property involved is any of the following:

- (a) A credit card;
  - (b) A printed form for a check or other negotiable instrument, that on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and that has not been executed by the drawer or maker or on which the amount is blank;
  - (c) A firearm or dangerous ordnance as defined in Ohio R.C. 2923.11;
  - (d) A motor vehicle identification license plate as prescribed by Ohio R.C. 4503.22, a temporary license placard or windshield sticker as prescribed by Ohio R.C. 4503.182, or any comparable license plate, placard or sticker as prescribed by the applicable law of another state or the United States;
  - (e) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by Ohio R.C. 4505.07;
  - (f) A blank form for any license listed in Ohio R.C. 4507.01(A).
- (ORC 2913.71)

#### 545.04 DETENTION OF SHOPLIFTERS; RIGHTS OF MUSEUMS AND LIBRARIES.

(a) A merchant, or his employee or agent, who has probable cause to believe that items offered for sale by a mercantile establishment have been unlawfully taken by a person, may, for the purposes set forth in subsection (c) hereof, detain the person in a reasonable manner for a reasonable length of time within the mercantile establishment or its immediate vicinity.

(b) Any officer, employee or agent of a library, museum or archival institution may, for the purposes set forth in subsection (c) hereof or for the purpose of conducting a reasonable investigation of a belief that the person has acted in a manner described in subsections (b)(1) and (2) hereof, detain a person in a reasonable manner for a reasonable length of time within, or in the immediate vicinity of the library, museum or archival institution, if the officer, employee or agent has probable cause to believe that the person has either:

- (1) Without privilege to do so, knowingly moved, defaced, damaged, destroyed or otherwise improperly tampered with property owned by or in the custody of the library, museum or archival institution; or
- (2) With purpose to deprive the library, museum or archival institution of property owned by it or in its custody, knowingly obtained or exerted control over the property without the consent of the owner or person authorized to give consent, beyond the scope of the express or implied consent of the owner or person authorized to give consent, by deception, or by threat.

(c) An officer, agent or employee of a library, museum or archival institution pursuant to subsection (b) hereof or a merchant or his employee or agent pursuant to subsection (a) hereof may detain another person for any of the following purposes:

- (1) To recover the property that is the subject of the unlawful taking, criminal mischief or theft;
- (2) To cause an arrest to be made by a peace officer;
- (3) To obtain a warrant of arrest.
- (4) To offer the person, if the person is suspected of the unlawful taking, criminal mischief, or theft and notwithstanding any other provision of this General Offenses or the Ohio Revised Code, an opportunity to complete a pretrial diversion program and to inform the person of the other legal remedies available to the library, museum, archival institution or merchant.

(d) The officer, agent or employee of the library, museum or archival institution, or the merchant or his employee or agent acting under subsection (a) or (b) hereof shall not search the person, search or seize any property belonging to the person detained without the person's consent, or use undue restraint upon the person detained.

(e) Any peace officer may arrest without a warrant any person that he has probable cause to believe has committed any act described in subsection (b)(1) or (2) hereof or that he has probable cause to believe has committed an unlawful taking in a mercantile establishment. An arrest under this subsection shall be made within a reasonable time after the commission of the act or unlawful taking.

(f) As used in this section:

- (1) "Archival institution" means any public or private building, structure or shelter in which are stored historical documents, devices, records, manuscripts or items of public interest, which historical materials are stored to preserve the materials or the information in the materials, to disseminate the information contained in the materials, or to make the materials available for public inspection or for inspection by certain persons who have a particular interest in, use for or knowledge concerning the materials.
- (2) "Museum" means any public or private nonprofit institution that is permanently organized for primarily educational or aesthetic purposes, owns or borrows objects or items of public interest, and cares for and exhibits to the public the objects or items.
- (3) "Pretrial diversion program" means a rehabilitative, educational program designed to reduce recidivism and promote personal responsibility that is at least four hours in length and that has been approved by any court in this State. (ORC 2935.041)

**545.05 PETTY THEFT.**

(a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

- (1) Without the consent of the owner or person authorized to give consent;
- (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- (3) By deception;
- (4) By threat;
- (5) By intimidation.

(b) Whoever violates this section is guilty of petty theft, a misdemeanor of the first degree. Petty theft is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property or services stolen is one thousand dollars (\$1,000) or more; or
- (2) The victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, or
- (3) The property stolen is a firearm or dangerous ordnance, or
- (4) The property stolen is a motor vehicle, or
- (5) The property stolen is any dangerous drug, or
- (6) The property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog, or
- (7) The property stolen is anhydrous ammonia, or
- (8) The property stolen is a special purpose article as defined in Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio R.C. 4737.012.

(c) In addition to the penalties described in subsection (b) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:

- (1) Unless subsection (c)(2) of this section applies, suspend for not more than six months the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;
- (2) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to subsection (c)(1) of this section, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in Ohio R.C. 4510.02(A)(7), provided that the suspension shall be for at least six months.
- (3) The court, in lieu of suspending the offender's driver's or commercial driver's license, probationary driver's license, temporary instruction permit, or nonresident operating privilege pursuant to subsections (c)(1) or (2) of this section, instead may require the offender to perform community service for a number of hours determined by the court.

(d) In addition to the penalties described in subsection (b) hereof, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to Ohio R.C. 2929.18 or 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing

the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of Ohio R.C. 2913.72.

(e) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under subsection (c) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with Ohio R.C. Chapter 4510. (ORC 2913.02)

#### 545.06 UNAUTHORIZED USE OF A VEHICLE; VEHICLE TRESPASS.

(a) No person shall knowingly use or operate an aircraft, motor vehicle, motorcycle, motorboat or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(b) This section does not apply to property removed from the State or if possession is kept for more than forty-eight hours.

(c) The following are affirmative defenses to a charge under this section:

- (1) At the time of the alleged offense, the actor, though mistaken, reasonably believed that the actor was authorized to use or operate the property.
- (2) At the time of the alleged offense, the actor reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.

(d) No person shall knowingly enter into or upon a motor vehicle, motorcycle or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(e) Whoever violates subsection (a) hereof is guilty of unauthorized use of a vehicle, a misdemeanor of the first degree. If the victim of the offense is an elderly person or disabled adult and if the victim incurs a loss as a result of the violation, a violation of subsection (a) hereof is a felony and shall be prosecuted under appropriate State law. (ORC 2913.03)

(f) Whoever violates subsection (d) hereof is guilty of vehicle trespass, a misdemeanor of the fourth degree.

#### 545.07 INSURANCE FRAUD.

(a) As used in this section:

- (1) "Data" has the same meaning as in Section 545.01 and additionally includes any other representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner.
- (2) "Deceptive" means that a statement, in whole or in part, would cause another to be deceived because it contains a misleading representation, withholds information, prevents the acquisition of information or by any other conduct, act or omission creates, confirms or perpetuates a false impression, including, but not limited to, a false impression as to law, value, state of mind or other objective or subjective fact.
- (3) "Insurer" means any person that is authorized to engage in the business of insurance in this State under Title XXXIX of the Ohio Revised Code; The Ohio Fair Plan Underwriting Association created under Ohio R.C. 3929.43; any health insuring corporation; and any legal entity that is self-insured and provides benefits to its employees or members.

- (4) "Policy" means a policy, certificate, contract or plan that is issued by an insurer.
- (5) "Statement" includes, but is not limited to, any notice, letter or memorandum; proof of loss; bill of lading; receipt for payment; invoice, account or other financial statement; estimate of property damage; bill for services; diagnosis or prognosis; prescription; hospital, medical or dental chart or other record; X-Ray, photograph, videotape or movie film; test result; other evidence of loss, injury or expense; computer-generated document; and data in any form.

(b) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall do either of the following:

- (1) Present to, or cause to be presented to, an insurer any written or oral statement that is part of, or in support of, an application for insurance, a claim for payment pursuant to a policy or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive;
- (2) Assist, aid, abet, solicit, procure or conspire with another to prepare or make any written or oral statement that is intended to be presented to an insurer as part of, or in support of, an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive.

(c) Whoever violates this section is guilty of insurance fraud a misdemeanor of the first degree. If the amount of the claim that is false or deceptive is one thousand dollars (\$1,000) or more, insurance fraud is a felony and shall be prosecuted under appropriate State law.

(d) This section shall not be construed to abrogate, waive or modify Ohio R.C. 2317.02(A). (ORC 2913.47)

#### 545.08 UNAUTHORIZED USE OF PROPERTY.

(a) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.

(b) The affirmative defenses contained in Section 545.06(c) are affirmative defenses to a charge under this section.

(c) Whoever violates this section is guilty of unauthorized use of property. Except as provided in subsection (d) hereof, unauthorized use of property is a misdemeanor of the fourth degree.

(d) If unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, unauthorized use of property is a misdemeanor of the first degree. Unauthorized use of property is a felony and shall be prosecuted under appropriate State law if:

- (1) Unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, and if the value of the property is one thousand dollars (\$1,000) or more; or
- (2) If the victim of the offense is an elderly person or disabled adult.  
(ORC 2913.04)

**545.09 PASSING BAD CHECKS.**

- (a) As used in this section:
- (1) "Check" includes any form of debit from a demand deposit account, including, but not limited to any of the following:
    - A. A check, bill of exchange, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument;
    - B. An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.
  - (2) "Issue a check" means causing any form of debit from a demand deposit account.
- (b) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored or knowing that a person has ordered or will order stop payment on the check or other negotiable instrument.
- (c) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored, if either of the following occurs:
- (1) The drawer had no account with the drawee at the time of issue or the stated date, whichever is later.
  - (2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within thirty days after issue or the stated date, whichever is later, and the liability of the drawer, indorser or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.
- (d) For purposes of this section, a person who issues or transfers a check, bill of exchange or other draft is presumed to have the purpose to defraud if the drawer fails to comply with Ohio R.C. 1349.16 by doing any of the following when opening a checking account intended for personal, family or household purposes at a financial institution:
- (1) Falsely stating that the drawer has not been issued a valid driver's or commercial driver's license or identification card issued under Ohio R.C. 4507.50;
  - (2) Furnishing such license or card, or another identification document that contains false information;
  - (3) Making a false statement with respect to the drawer's current address or any additional relevant information reasonably required by the financial institution.
- (e) In determining the value of the payment for purposes of subsection (f) of this section, the court may aggregate all checks and other negotiable instruments that the offender issued or transferred or caused to be issued or transferred in violation of subsection (a) of this section within a period of one hundred eighty consecutive days.
- (f) Whoever violates this section is guilty of passing bad checks. Except as otherwise provided in this subsection, passing bad checks is a misdemeanor of the first degree. If the check or checks or other negotiable instrument or instruments are issued or transferred to a single vendor or single other person for the payment of one thousand dollars (\$1,000) or more or if the check or checks or other negotiable instrument or instruments are issued or transferred to multiple vendors or persons for the payment of one thousand five hundred dollars (\$1,500) or more, passing bad checks is a felony and shall be prosecuted under appropriate State law. (ORC 2913.11)



**545.10 MISUSE OF CREDIT CARDS.**

- (a) No person shall do any of the following:
  - (1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;
  - (2) Knowingly buy or sell a credit card from or to a person other than the issuer.
- (b) No person, with purpose to defraud, shall do any of the following:
  - (1) Obtain control over a credit card as security for a debt;
  - (2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained or is being used in violation of law;
  - (3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;
  - (4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.
- (c) No person, with purpose to violate this section, shall receive, possess, control or dispose of a credit card.
- (d) Whoever violates this section is guilty of misuse of credit cards, a misdemeanor of the first degree. Misuse of credit cards is a felony and shall be prosecuted under appropriate State law if:
  - (1) The cumulative retail value of the property and services involved in one or more violations of subsection (b)(2), (3) or (4) hereof, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is one thousand dollars (\$1,000) or more; or
  - (2) The victim of the offense is an elderly person or disabled adult and the offense involves a violation of subsection (b)(1) or (2) hereof.  
(ORC 2913.21)

**545.11 MAKING OR USING SLUGS.**

- (a) No person shall do any of the following:
  - (1) Insert or deposit a slug in a coin machine, with purpose to defraud;
  - (2) Make, possess or dispose of a slug, with purpose of enabling another to defraud by inserting or depositing it in a coin machine.
- (b) Whoever violates this section is guilty of making or using slugs, a misdemeanor of the second degree. (ORC 2913.33)

**545.12 TAMPERING WITH COIN MACHINES.**

- (a) No person, with purpose to commit theft or to defraud, shall knowingly enter, force an entrance into, tamper with or insert any part of an instrument into any coin machine.
- (b) Whoever violates this section is guilty of tampering with coin machines, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of Ohio R.C. 2911.32 or of any theft offense, tampering with coin machines is a felony and shall be prosecuted under appropriate State law. (ORC 2911.32)

**545.13 CRIMINAL SIMULATION.**

(a) No person, with purpose to defraud, or knowing that the person is facilitating a fraud, shall do any of the following:

- (1) Make or alter any object so that it appears to have value because of antiquity, rarity, curiosity, source, or authorship, which it does not in fact possess;
- (2) Practice deception in making, retouching, editing, or reproducing any photograph, movie film, video tape, phonograph record, or recording tape;
- (3) Falsely or fraudulently make, simulate, forge, alter, or counterfeit any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303, falsely or fraudulently cause to be made, simulated, forged, altered, or counterfeited any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303, or use more than once any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303.
- (4) Utter, or possess with purpose to utter, any object that the person knows to have been simulated as provided in subsection (a)(1), (2) or (3) of this section.

(b) Whoever violates this section is guilty of criminal simulation, a misdemeanor of the first degree. If the loss to the victim is one thousand dollars (\$1,000) or more, criminal simulation is a felony and shall be prosecuted under appropriate State law.  
(ORC 2913.32)

**545.14 TAMPERING WITH RECORDS.**

(a) No person, knowing the person has no privilege to do so, and with purpose to defraud or knowing that the person is facilitating a fraud, shall do any of the following:

- (1) Falsify, destroy, remove, conceal, alter, deface or mutilate any writing, computer software, data, or record;
- (2) Utter any writing or record, knowing it to have been tampered with as provided in subsection (a)(1) hereof.

(b) Whoever violates this section is guilty of tampering with records, a misdemeanor of the first degree. If the violation involves data or computer software the value of which or loss to the victim is one thousand dollars (\$1,000) or more, or if the writing or record is a will unrevoked at the time of the offense, tampering with records is a felony and shall be prosecuted under appropriate State law. (ORC 2913.42)

**545.15 SECURING WRITINGS BY DECEPTION.**

(a) No person, by deception, shall cause another to execute any writing that disposes of or encumbers property, or by which a pecuniary obligation is incurred.

(b) Whoever violates this section is guilty of securing writings by deception, a misdemeanor of the first degree. Securing writings by deception is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property or obligation involved is one thousand dollars (\$1,000) or more; or
- (2) The victim of the offense is an elderly person, disabled adult, active duty service member or spouse of an active duty service member.  
(ORC 2913.43)

**545.16 PERSONATING AN OFFICER.**

(a) No person, with purpose to defraud or knowing that he is facilitating a fraud, or with purpose to induce another to purchase property or services, shall personate a law enforcement officer, or an inspector, investigator or agent of any governmental agency.

(b) Whoever violates this section is guilty of personating an officer, a misdemeanor of the first degree. (ORC 2913.44)

**545.17 DEFRAUDING CREDITORS.**

(a) No person, with purpose to defraud one or more of the person's creditors, shall do any of the following:

- (1) Remove, conceal, destroy, encumber, convey or otherwise deal with any of the person's property.
- (2) Misrepresent or refuse to disclose to a fiduciary appointed to administer or manage the person's affairs or estate, the existence, amount or location of any of the person's property, or any other information regarding such property that the person is legally required to furnish to the fiduciary.

(b) Whoever violates this section is guilty of defrauding creditors, a misdemeanor of the first degree. If the value of the property involved is one thousand dollars (\$1,000) or more, defrauding creditors is a felony and shall be prosecuted under appropriate State law. (ORC 2913.45)

**545.18 RECEIVING STOLEN PROPERTY.**

(a) No person shall receive, retain or dispose of property of another, knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.

(b) It is not a defense to a charge of receiving stolen property in violation of this section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.

(c) Whoever violates this section is guilty of receiving stolen property, a misdemeanor of the first degree. Receiving stolen property is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property involved is one thousand dollars (\$1,000) or more; or
  - (2) The property involved is:
    - A. Listed in Section 545.03; or
    - B. A motor vehicle as defined in Ohio R.C. 4501.01; or
    - C. A dangerous drug as defined in Ohio R.C. 4729.01.
    - D. A special purchase article as defined in Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio R.C. 4737.012.
- (ORC 2913.51)

**545.19 POSSESSION OF CRIMINAL TOOLS.**

(a) No person shall possess or have under the person's control any substance, device, instrument, or article, with purpose to use it criminally.

(b) Each of the following constitutes prima-facie evidence of criminal purpose:

- (1) Possession or control of any dangerous ordnance, or the materials or parts for making dangerous ordnance, in the absence of circumstances indicating the dangerous ordnance, materials, or parts are intended for legitimate use;

- (2) Possession or control of any substance, device, instrument, or article designed or specially adapted for criminal use;
- (3) Possession or control of any substance, device, instrument, or article commonly used for criminal purposes, under circumstances indicating the item is intended for criminal use.

(c) Whoever violates this section is guilty of possessing criminal tools, a misdemeanor of the first degree. If the circumstances indicate that the substance, device, instrument, or article involved in the offense was intended for use in the commission of a felony, possessing criminal tools is a felony and shall be prosecuted under appropriate State law.  
(ORC 2923.24)

#### 545.20 FORGERY OF IDENTIFICATION CARDS.

(a) No person shall knowingly do either of the following:

- (1) Forge an identification card;
- (2) Sell or otherwise distribute a card that purports to be an identification card, knowing it to have been forged.
- (3) As used in this section, "identification card" means a card that includes personal information or characteristics of an individual, a purpose of which is to establish the identity of the bearer described on the card, whether the words "identity," "identification," "identification card" or other similar words appear on the card.

(b) Whoever violates subsection (a) hereof is guilty of forging identification cards or selling or distributing forged identification cards. Except as otherwise provided in this subsection, forging or selling or distributing forged identification cards is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section or Ohio R.C. 2913.31 (B), forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree and, in addition, the court shall impose upon the offender a fine of not less than two hundred fifty dollars (\$250.00).  
(ORC 2913.31)

#### 545.21 IDENTITY FRAUD.

(EDITOR'S NOTE: Former Section 545.21 has been deleted from the Codified Ordinances. Ohio R.C. 2913.49, from which Section 545.21 was derived, has been reclassified from a misdemeanor to a felony offense.)

#### 545.99 PENALTY.

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

**CHAPTER 551**  
**Trees, Weeds and Shrubbery**

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|---|--|
| <p>551.01 Trimming of trees and shrubbery.</p> <p>551.02 Notice to cut noxious weeds.</p> | <p>551.03 Removal by City authority.</p> <p>551.04 Assessment of costs by Municipality.</p> <p>551.99 Penalty.</p> |
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**CROSS REFERENCES**

Power to regulate shade trees and shrubbery - see Ohio R.C. 715.20  
 Assessments for tree planting or maintenance - see Ohio R.C. 727.011  
 Notice to cut noxious weeds - see Ohio R.C. 731.51 et seq.  
 Destruction of weeds - see Ohio R.C. 971.33 et seq.  
 Injury or destruction - see GEN. OFF. 541.06

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**551.01 TRIMMING OF TREES AND SHRUBBERY.**

(a) The owner, occupant or person having the charge or management of any lot or parcel of land within the corporate limits of the Municipality upon which a tree, plant or shrubbery stands, with any part thereof upon or overhanging a public street or sidewalk, shall conform to the regulations herein provided; otherwise, the Municipality shall cause such trees to be trimmed or cut down and removed in accordance with such regulations and assess the cost thereof against the owner of such lot or parcel of land.

- (1) The owner, occupant or any other person, firm, or corporation having the charge or management of any lot or parcel of land within the corporate limits of the Municipality shall trim or cause to be trimmed such tree, plant or shrubbery so that a clear height of eight feet between the lowest branches of the same and the street or sidewalk is maintained.
- (2) The owner, occupant or any other person, firm, or corporation having the charge or management of any lot or parcel of land within the corporate limits of the Municipality shall trim or remove, as the case may require, every dead, decayed, diseased or broken tree, plant or shrubbery, or part thereof, so that the same shall not fall to the street or sidewalk.
- (3) The owner, occupant or any other person, firm, or corporation having the charge or management of any lot or parcel of land within the corporate limits of the Municipality shall cut down and remove any tree, plant or shrubbery, or any part thereof, as may be necessary to provide a clear and unobstructed view of traffic from all directions at any street intersection or to abate any nuisance in order to protect the life, limb or property of persons, drivers of vehicles or pedestrians using the street or sidewalk.  
 (Ord. 14-58AC CMS. Passed 1-5-15.)

**551.02 NOTICE TO CUT NOXIOUS WEEDS.**

(a) Where the City Manager or his designee determines that any owner, occupant or any other person, firm, or corporation having the charge or management of any lot or parcel of land within the corporate limits of the municipality is not in compliance with the requirements of Section 551.01 of this Chapter, he or she shall forthwith serve written notice by regular and U.S. Certified Mail, return receipt requested, upon the owner at the owner's last known address and by regular mail upon such other occupant, person, firm or corporation, identifying the non-compliance and ordering its abatement .

(b) If the address of any owner, or any other person, firm or corporation subject to the provisions of this Chapter above is unknown, it shall be sufficient to publish the notice once in a newspaper of general circulation within the County.

(c) Only one notice per calendar year under subsections (a) or (b) hereof is required for a lot or parcel. If after notice has been served in accordance with this section, the City Manager or his designee determines that a subsequent violation of the provisions of this Chapter has occurred, the Municipality may proceed with the remedies set forth in section 551.03 without further notice.

(d) There is hereby excluded from the operation of this Chapter any crops or flower gardens under cultivation. Naturalized vegetation maintained free of noxious plants as a managed landscape with a setback of no less than 8' from the public rights-of-way and 5' from side and rear property lines, and site buildings shall also be excluded from the operation of subsection (a) hereof. The City Manager shall be authorized to promulgate such administrative rules and regulations necessary to manage said crops, flower gardens and/or naturalized vegetation in the public interest. (Ord. 14-58AC CMS. Passed 1-5-15.)

**551.03 REMOVAL BY CITY AUTHORITY.**

In the event any owner, occupant or any other person, firm, or corporation that is subject to the provisions of this Chapter fails to comply with the requirements of the notice provided in Section 551.02 above, then the City Manager shall have the authority to cause the abatement of the noncompliance and to assess the cost thereof against the real estate. (Ord. 14-58AC CMS. Passed 1-5-15.)

**551.04 ASSESSMENT OF COSTS BY MUNICIPALITY.**

In the event the City Manager shall have caused the abatement of any noncompliance as provided in Section 551.03 of this chapter, then, after completion of such work, the Municipality shall give fifteen days' notice, by regular mail and by U.S. certified Mail, return receipt requested, to the owner of such lot or parcel of land, at his/her last known address, to pay the actual cost of such trimming or removal, plus an administrative fee of an additional fifty per cent (50%) of that cost, which notice shall be accompanied by a statement of the amount of said costs incurred and fee added. In the event the same is not paid within forty-five (45) days after the mailing of the notice, such amount shall be certified to the County Auditor by the Law Director or his/her designee for collection the same as other taxes and assessments are collected, together with a penalty of twenty-five percent (25%) of the costs and administrative fee. (Ord. 14-58AC CMS. Passed 1-5-15.)

**551.99 PENALTY.**

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

**CODIFIED ORDINANCES OF OBERLIN**

**PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE**

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**TITLE ONE - Streets, Sidewalks and Trees**

- Chap. 901. Streets and Parks Division.
- Chap. 903. Excavation Permits.
- Chap. 905. Sidewalks.
- Chap. 907. Tree Planting, Care and Removal.

**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 Service.

**TITLE FIVE - Other Public Services**

- Chap. 921. Westwood Cemetery.
- Chap. 923. Municipal Reservoirs.
- Chap. 925. Refuse and Recycling Collection.
- Chap. 927. City Parks and Recreation Areas.





**TITLE FIVE - Other Public Services**  
**Chap. 921. Westwood Cemetery.**  
**Chap. 923. Municipal Reservoirs.**  
**Chap. 925. Refuse and Recycling Collection.**  
**Chap. 927. City Parks and Recreation Areas.**

**CHAPTER 921**  
**Westwood Cemetery**

921.01	Cemetery lots.	921.08	Removal of bodies after burial.
921.02	Resale of lots.	921.09	Care, maintenance and upkeep of Cemetery.
921.03	Grave openings.	921.10	Burials and burial permits.
921.04	Funerals in evenings, on weekends and holidays.	921.11	Charges.
921.05	Cemetery hours.	921.12	Burial of indigents.
921.06	Retaining vault.		
921.07	Concrete foundations.		

**CROSS REFERENCES**

Municipal cemeteries - see Ohio R.C. Ch. 759  
 Burials may be prohibited - see Ohio R.C. 759.05  
 Burial permits - see Ohio R.C. 3705.24 et seq.  
 Burial of indigent persons - see Ohio R.C. 5113.15  
 Desecration - see GEN. OFF. 541.07

**921.01 CEMETERY LOTS.**

Council may establish charges for all lots remaining in all sections of Westwood Cemetery. (1957 Code §921.01)

**921.02 RESALE OF LOTS.**

Resale of any and all lots must be made back to the City at the original price paid by the purchaser. (1957 Code §921.02)

**921.03 GRAVE OPENINGS.**

Council may establish charges for the opening of graves.  
 (1957 Code §921.03)

**921.04 FUNERALS IN EVENINGS, ON WEEKENDS AND HOLIDAYS.**

There shall be no funerals after 5:30 p.m. Monday through Friday, or on Saturday afternoons, or anytime on Sundays or anytime on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.  
 (Ord. 92-45AC. Passed 8-3-92.)

**921.05 CEMETERY HOURS.**

Westwood Cemetery shall be open to the public from 4:00 a.m. until 11:00 p.m. The regular service hours of Westwood Cemetery shall be from 8:00 a.m. to 4:00 p.m. Monday through Friday. Funerals entering the Cemetery after 4:00 p.m. Monday through Friday and prior to 12:00 p.m. on Saturday mornings shall be charged an additional fee, which must be paid in full before burial. There shall be no burials after 1:00 p.m. on Saturday and prior to 9:30 a.m. on Monday.

(Ord. 92-45AC. Passed 8-3-92.)

**921.06 RETAINING VAULT.**

Council may establish charges for use of the retaining vault for each month or part thereof. (1957 Code §921.06)

**921.07 CONCRETE FOUNDATIONS.**

Council may establish charges for concrete foundations. (1957 Code §921.07)

**921.08 REMOVAL OF BODIES AFTER BURIAL.**

(a) Whenever a body is removed from one burial space to another burial space in Westwood Cemetery, a charge shall be made for disinterment and a charge shall be made for reinterment.

(b) After the Sexton of the Cemetery is requested to move the vault containing the body, an additional charge will be made for the raising and lowering of the vault and the transportation from one burial space to another.

(c) If the vault to be moved is either of the slab type or the old wooden type, a new vault or slab will be required.

(d) The Cemetery cannot be responsible for any breakage to the vault during the transferring process.

(e) No body shall be moved except between October 1 and March 1 of any year. (1957 Code §921.08)

**921.09 CARE, MAINTENANCE AND UPKEEP OF CEMETERY.**

To secure a good effect in the Cemetery, it is essential that every portion of it shall be well cared for. Therefore, the care of all lots is assumed by the City.

(a) No person, other than Cemetery employees, will be permitted to perform any work on any lot without a permit from the City Manager or Sexton.

(b) All grading or improvement must be done by the employees of the Cemetery.

(c) If any tree or shrub situated on any lot shall become detrimental to any adjacent lot, it shall be the duty of the City to remove the tree or shrub.

(d) The City will remove all flowers, potted plants or wreaths when they become frosted, faded or withered. The City shall not be responsible for any memorials, including plants, etc.

(e) Only cut flowers placed in sunken metal or winona type vases will be permitted in Section S (the park plan section).

(f) Rusty, unpainted, unfilled vases or urns will be removed from lots.

(g) When permission for special planting has been obtained, the shrubs or trees placed must have yearly care from an independent arborist.

# **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 Refuse and Recycling Collection

925.01	Purpose.	925.09	Temporary dumpsters.
925.02	Refuse and recycling collection rules.	925.10	Unauthorized use of collection container.
925.03	Residential collection services.	925.11	Scavenging of materials.
925.04	Commercial collection services.	925.12	Materials prohibited.
925.05	Organics recovery; open burning.	925.13	Resource Conservation and Recovery Commission.
925.06	Large trash collection service.	925.99	Penalty.
925.07	Rates.		
925.08	Dumpster service in Central Business District.		

### 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 PURPOSE.

Chapter 925 is adopted to provide for the safe, sanitary and efficient collection of refuse, recycling and compost materials for the residents, businesses and institutions of the City of Oberlin. (Ord. 14-50AC CMS. Passed 9-15-14.)

#### 925.02 REFUSE AND RECYCLING COLLECTION RULES.

(a) The City Manager is authorized to promulgate and publish such rules as are necessary for the efficient and economical collection of refuse, recycling and compost materials.

(b) Customers shall keep all refuse and recycling materials separate in accordance with all collection program guidelines.  
(Ord. 14-50AC CMS. Passed 9-15-14.)

**925.03 RESIDENTIAL COLLECTION SERVICES.**

(a) The City, through its personnel or by contract, shall provide for the collection of refuse and recyclable materials from residential properties by methodology prescribed by the City and according to a collection schedule published by the City.

(b) Such pick-up shall be at curbside or at such location as may be determined by the City. It shall be the obligation of the persons being served to place the refuse and recyclable materials at curbside in the manner, location and at the proper time specified by the City.

(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 one (1) refuse collection cart and one (1) or more recycling collection cart(s), provided by the City, for collection each week.

(e) Persons may request refuse service in excess of the basic residential service. Charges for such additional service shall be established by City Council.

(f) Beginning July 1, 2015, residential customers are required to participate in the City's curb-side recycling collection program.  
(Ord. 14-50AC CMS. Passed 9-15-14.)

**925.04 COMMERCIAL COLLECTION SERVICES.**

(a) The City exclusively shall provide for the collection of refuse and recyclable materials at all commercial and industrial establishments, schools, offices, churches, multi-family dwellings, 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.

(b) Section 925.04(a) 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.

(c) All owners of such commercial, industrial and institutional establishments as defined in 925.04(a) shall provide refuse and recycling collection services for said facility in accordance with program collection guidelines established by the City. Beginning July 1, 2015, commercial customers are required to participate in the City's commercial recycling collection programs. (Ord. 14-50AC CMS. Passed 9-15-14.)

**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, recyclable materials or yard waste is prohibited.  
(Ord. 14-50AC CMS. Passed 9-15-14.)

#### 925.06 LARGE TRASH COLLECTION SERVICE.

(a) Residential customers 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 recyclable materials collected under current program guidelines. Items placed for collection shall be bagged, boxed, bundled, or otherwise secured.

(d) Each residential property shall be entitled to two scheduled free large trash pick-up per year of up to four cubic yards each. 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 four 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. 14-50AC CMS. Passed 9-15-14.)

#### 925.07 RATES.

##### (a) Residential Rates.

- (1) Commencing January 1, 2015, a basic residential rate of seven and 50/100 dollars (\$7.50) 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, 2016 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.
- (3) Each additional residential service shall be charged at the rate of 50% of the basic residential service charge.

(b) Commercial Rates.

- (1) Commercial refuse rates shall be charged as follows:

Dumpster Size	Per Service Commencing on:			
	August 1, 2009	January 1, 2015	January 1, 2016	January 1, 2017
1.5	\$5.85	\$10.53	\$12.63	\$14.54
2	\$11.10	\$13.32	\$15.98	\$18.38
3	\$15.30	\$18.36	\$22.03	\$25.34
4	\$18.60	\$22.32	\$26.78	\$30.80
6	\$26.10	\$31.32	\$37.58	\$43.22
8	\$32.40	\$38.88	\$46.66	\$53.65

- (2) 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) Customers whose service is less than one cubic yard and where a dumpster is not required shall be provided with a 96-gallon refuse collection cart. The basic commercial service fee for a 96-gallon cart shall be eleven dollars and 25/100 (\$11.25) per month. Each additional commercial service shall be charged at the rate of 50% of the basic commercial service charge.
- (4) 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. 14-50AC CMS. Passed 9-15-14.)



**925.08 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 1.5-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. 14-50AC CMS. Passed 9-15-14.)

**925.09 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 deliver 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. 14-50AC CMS. Passed 9-15-14.)

#### 925.10 UNAUTHORIZED USE OF COLLECTION CONTAINER.

(a) No person shall place any waste or recyclable materials into a City-owned collection container except as may be authorized by the party responsible for paying the collection charges thereof.

(b) For dumpsters placed pursuant to Section 925.08, 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. 14-50AC CMS. Passed 9-15-14.)

#### 925.11 SCAVENGING OF MATERIALS.

Scavenging of materials placed for collection by the City shall be prohibited. Said materials shall remain the property of the customer disposing of said material until such time as the material is collected by the City. (Ord. 14-50AC CMS. Passed 9-15-14.)

#### 925.12 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 refrigerants or in which the refrigerant 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. 14-50AC CMS. Passed 9-15-14.)

#### 925.13 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. 14-50AC CMS. Passed 9-15-14.)

#### 925.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be fined not more than one hundred dollars (\$100.00).  
(Ord. 14-50AC CMS. Passed 9-15-14.)

**1321.923 TELECOMMUNICATIONS EQUIPMENT BUILDING, WIRELESS OR CELLULAR.**

"Telecommunications equipment building, wireless or cellular" means the structure in which the electronic receiving and relay equipment for a wireless telecommunication facility is housed. (Ord. 98-13 AC. Passed 2-2-98.)

**1321.924 TELECOMMUNICATIONS FACILITY, WIRELESS OR CELLULAR.**

"Telecommunications facility, wireless or cellular" means a facility consisting of the equipment and structures involved in receiving telecommunication or radio signals from a mobile radio communication source and transmitting those signals to a central switching computer which connects the mobile unit with the land based telephone lines. (Ord. 98-13 AC. Passed 2-2-98.)

**1321.925 TELECOMMUNICATION TOWER, WIRELESS OR CELLULAR.**

"Telecommunication tower, wireless or cellular" means a structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles and guyed and lattice construction steel structures. (Ord. 98-13 AC. Passed 2-2-98.)

**1321.93 TERRACE; HEIGHT OF TERRACE.**

(a) "Terrace" means a natural or artificial earthen embankment between a building and its front.

(b) "Height of terrace" means the difference in elevation between the average sidewalk level or its equivalent established grade opposite the front of the middle of the building and the average elevation of the terrace at the building wall. (Ord. 96-82 AC. Passed 9-16-96.)

**1321.94 USE.**

"Use" means the purpose or activity for which land or structures thereon are designed, arranged or intended or for which they are occupied and maintained. (Ord. 96-82 AC. Passed 9-16-96.)

**1321.95 USE, ACCESSORY.**

"Accessory use" means a use which is incidental to the main use of the premises. (Ord. 96-82 AC. Passed 9-16-96.)

**1321.96 USE, NONCONFORMING.**

"Nonconforming use" means any building or land lawfully occupied by a use, at the time of passage of this Zoning Ordinance (Ordinance 430 AC, passed November 29, 1965) or amendment thereto, which does not conform, after the passage of this Zoning Ordinance (Ordinance 430 AC, passed November 29, 1965) or amendment thereto, with the use regulations of the district in which it is situated. (Ord. 96-82 AC. Passed 9-16-96.)

**1321.97 VEHICLE, COMMERCIAL.**

"Commercial vehicle" means a motorized vehicle other than a passenger car, passenger van (with a seating capacity of less than 16 passengers) or recreational vehicle used by a household for non-commercial personal or family transportation, for recreation or for van pooling or ride-sharing use. Commercial vehicles include commercial trucks, buses, commercial vans, tractors, semitrailers, utility trucks, motorized farm vehicles, earth-moving equipment, construction trailers, flatbed trailers, pole trailers, horse/livestock trailers, and construction equipment including but not limited to backhoes, excavators, motorized cranes, portable cranes, well drilling rigs, etc. (Ord. 14-65AC CMS. Passed 12-15-14.)

**1321.98 VEHICLE, RECREATIONAL.**

"Recreational vehicle" means a vehicle designed as temporary living quarters in conjunction with recreation, camping or travel use which either has its own motive power or is drawn by another vehicle. Recreational vehicles include travel trailers, camping trailers, truck campers, boats on or off trailer, motor homes and similar vehicles.  
(Ord. 96-82 AC. Passed 9-16-96.)

**1321.99 WALL, FRONT.**

"Front wall" means the wall of a building which most nearly parallels the frontage of the lot on which the building is located, or, on a building or part of a building which does not face a street, a wall facing a parking lot open to the public as approved by the Planning Commission.  
(Ord. 96-82 AC. Passed 9-16-96.)

**1321.100 YARD.**

"Yard" means an open space on a lot other than a court that either is ("actual yard") or is required hereunder to be ("required yard") unoccupied and unobstructed above ground level by any structure or part or projection thereof other than those permitted in yards herein. An actual yard may be larger than the corresponding required yard. Where a yard is not specified herein to be a required yard or an actual yard, it shall be construed to be a required yard.  
(Ord. 96-82 AC. Passed 9-16-96.)

**1321.101 YARD, FRONT.**

"Front yard" means a yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street right-of-way and the main building or any projections thereof other than the projections of uncovered steps, uncovered balconies or uncovered porches. On corner lots the yards fronting on both streets shall be considered to be front yards. (Ord. 430 AC. Passed 11-29-65.)

**1321.102 YARD, REAR.**

"Rear yard" means a yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots the rear yard shall be at the opposite end of the lot from the front yard. (Ord. 96-82 AC. Passed 9-16-96.)

**1321.103 YARD, SIDE.**

"Side yard" means a yard between the main building and the side line of the lot and extending from the front yard line to the rear yard and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereof.  
(Ord. 96-82 AC. Passed 9-16-96.)

## CHAPTER 1327 Amendments

<b>1327.01</b>	<b>Initiation of Zoning Map or text change.</b>	<b>1327.04</b>	<b>Council hearing.</b>
<b>1327.02</b>	<b>Petition and fee.</b>	<b>1327.05</b>	<b>Action by Council.</b>
<b>1327.03</b>	<b>Review.</b>	<b>1327.06</b>	<b>Effect of failure to notify interested persons.</b>

### CROSS REFERENCES

Council may amend districting or zoning - see Ohio R.C. 713.10  
 Council to hold public hearing - see Ohio R.C. 713.12  
 Amendments to Development Plan - see P. & Z. 1338.05

#### **1327.01 INITIATION OF ZONING MAP OR TEXT CHANGE.**

A proposed change of the Zoning Map or the text of the Zoning Code ("Zoning Amendment") may be initiated by City Council, by the independent recommendation of the Planning Commission or upon petition of the owner or an authorized agent of the owner of the property to which the change to the Zoning Map or text would apply.  
 (Ord. 14-64 AC CMS. Passed 1-5-15.)

#### **1327.02 PETITION AND FEE.**

Any property owner proposing a Zoning Amendment shall file a petition with the Planning Commission and copy of such petition with City Council. Notice of the submission of such petition shall be posted on the City website and in the same manner as other public notices within the City. The petition shall include a completed application form, any site or building plans and the fee in the amount prescribed by ordinance.  
 (Ord. 14-64 AC CMS. Passed 1-5-15.)

#### **1327.03 REVIEW.**

(a) For any petition filed by a property owner or for any referral of a proposed change made by Council motion, the Planning Commission shall be allowed no less than thirty (30) days, and no more than sixty (60) days, to review the petition or referral.

(b) The Planning Commission may recommend the approval, disapproval or modification of any proposed Zoning Amendment and shall submit its recommendation in writing to Council. (Ord. 14-64 AC CMS. Passed 1-5-15.)

#### **1327.04 COUNCIL HEARING.**

(a) Upon receipt of a recommendation from the Planning Commission, Council shall hold a public hearing before the adoption of the proposed Zoning Amendment.

(b) Notice of the public hearing on the proposed Zoning Amendment shall be given thirty (30) days prior to the hearing by at least one (1) publication of the date, time and place of the hearing thereon in a newspaper of general circulation in the City, and notice shall be sent by regular mail to any petitioner and all property owners of record within 200 feet of the property that is the subject of the proposed Zoning Amendment.  
(Ord. 14-64 AC CMS. Passed 1-5-15.)

#### **1327.05 ACTION BY COUNCIL.**

After the public hearing required by Section 1327.04, Council shall either adopt or deny the recommendation of the Planning Commission or adopt some modification thereof all by at least a 4/7th majority vote of its members, conflicting provisions relating to the number of votes contained in Section 713.12 of the Ohio Revised Code being hereby declared to be inoperative. Any proposed Zoning Amendment may be amended by Council prior to the final passage of the ordinance adopting such Zoning Amendment without further notice or postponement.  
(Ord. 14-64 AC CMS. Passed 1-5-15.)

#### **1327.06 EFFECT OF FAILURE TO NOTIFY INTERESTED PERSONS.**

The failure to notify any owner or occupant of property under Section 1327.04 shall not invalidate any ordinance implementing a Zoning Amendment, provided such failure was not intentional. (Ord. 14-64 AC CMS. Passed 1-5-15.)

**CHAPTER 1349**  
**Off-Street Parking and Loading**

- |   |   |
|---|---|
| <b>1349.01 Provisions applying to parking and loading.</b><br><b>1349.02 Off-street parking provisions.</b> | <b>1349.03 Off-street loading provisions.</b> |
|---|---|

**CROSS REFERENCES**  
Off-street parking - see Ohio R.C. 717.05

**1349.01 PROVISIONS APPLYING TO PARKING AND LOADING.**

(a) **Purpose.** The purpose of the requirements in this chapter is to further the appropriate provision and design of off-street parking and loading areas that will:

- (1) Provide access for occupants, employees, customers, clients and visitors to land uses in a community dependent on automobile and truck transportation.
- (2) Foster safe and efficient circulation of vehicles and pedestrians both on private property and on adjacent public streets.
- (3) Minimize nuisances in residential areas from on- or off-street parking of large numbers of, or incompatible types of, vehicles.

(b) **Applicability.**

- (1) Off-street parking and loading spaces shall be provided in conformance with the requirements of Tables 1, 2, 3 and 4 and other provisions herein for:
  - A. All new uses, and
  - B. All existing uses that are:
    1. Enlarged or expanded, or
    2. Otherwise changed in density, intensity, capacity or other measure that determines parking or loading requirements hereunder, or
    3. Changed to any other use to which different parking requirements herein apply.
- (2) The requirements of this chapter apply to any provision, removal, enlargement or alteration of any off-street parking or loading spaces or areas that are accessory to any building or structure and either:
  - A. Are existing as of the effective date of these regulations, or
  - B. Are new spaces or areas required to be provided hereunder or voluntarily provided in excess of the requirements herein.

These provisions shall likewise apply to parking that is the principal use of a parcel. Open sales lots for motor vehicles shall not be considered as parking spaces for purposes of this chapter.

No additional spaces shall be required for expansion or change of an existing use if the standards herein would require an increase over the spaces already provided on the site of less than fifteen percent (15%).

(Ord. 88-86AC. Passed 12-5-88.)

(c) **Prerequisite for Permits.**

(1) **Building Permit/Zoning Certificate.** Prior to issuance of a building permit or zoning certificate, the City Manager or his/her designee shall determine the application therefor exhibits compliance with:

- A. All applicable provisions of these and other City regulations from which a variance has not been approved as provided therein, and
- B. All conditions to which any approval thereunder has been made subject. (Ord. 89-85AC. Passed 12-4-89.)

(2) **Certificate of occupancy.** Either prior to issuance of a certificate of occupancy or within such period of time thereafter as the Planning Commission may have approved, he or she shall likewise determine either:

- A. That parking and loading facilities required herein have been fully installed and improved in conformance with:
  - 1. All currently applicable approved applications for City permits, certificates or approvals, and
  - 2. Any conditions to which approval thereof was made subject, and
  - 3. All provisions of this and other applicable City ordinances from which a variance has not been approved, or
- B. That financial sureties approved by the Law Director have been provided guaranteeing such installation and improvement.

(d) **Exception for C-1 Commercial District.** In recognition of the existing character and pedestrian orientation of the City's older downtown business area, no off-street parking or loading shall be required for individual uses located entirely within the C-1 Commercial District and that are also located entirely within the area bounded by Lorain, Pleasant, Vine and Professor Streets.

This exception is made to minimize curb cuts disruptive to safe and efficient pedestrian circulation and to encourage provision of off-street parking in centralized locations that serve multiple uses.

(e) **Variances.** The Planning Commission may approve a variance to the parking or loading requirements herein on the basis either:

- (1) Of criteria provided in the general regulations governing variances in this chapter, or
- (2) Of submission of parking and demand studies, documented industry standards or other evidence satisfactory to the Commission that the nature of the use requires fewer spaces than required herein.

(Ord. 88-64. Passed 10-3-88.)

Notice of the variance request shall be sent by regular mail to all property owners within 200 feet of the property in question at least fourteen (14) days prior to the Planning Commission meeting. (Ord. 14-65 AC CMS. Passed 12-15-14.)



(f) Preservation and Replacement of Existing Spaces. No off-street parking or loading spaces or areas provided in full or partial conformity with the provisions of these or previous regulations shall be reduced in size, number or other characteristics below the requirements herein, or further below such requirements, so long as the use they serve continues in operation.

Residential garages shall not be converted into nonparking use unless parking requirements herein will be met after such conversion.

A use that undergoes a reduction in floor area or other measure specified herein for determining the number of required spaces may nonetheless reduce the number of spaces to those required herein for the downsized use.

(g) Use of Parking and Loading Areas. Except as otherwise provided herein, required off-street parking shall be used solely for parking for patrons, occupants, guests, visitors or employees of the premises on the same lot.

No sales, dead storage of any kind, nor motor vehicle dismantling, repair or servicing work except for emergency services, is permitted in any open off-street parking or loading area except as an accessory use to single-family detached or attached dwellings or as otherwise provided herein or as may be approved by Council.

(h) Access. Except for uses required hereunder to provide four or fewer spaces, each required off-street parking space and loading space shall open directly upon an aisle or driveway of such width and design as to provide a safe and efficient means of vehicular access. Each space shall have vehicular access to a public thoroughfare in a manner that will least interfere with traffic movement thereupon. Division of aisles and driveways shall be as provided in Table 1.

(i) Grading and Drainage. All parking and loading areas shall be graded for proper drainage and the volume of storm water runoff that exceeds that existing prior to the installation of such areas shall be discharged into the City storm sewer system or in another manner approved by the Director of Public Works.

(j) Maintenance. All parking and loading areas shall be maintained free of dust, trash and debris. The surfacing, curbing, lighting fixtures, marking, signage and related appurtenances shall be maintained in good condition so long as such areas are used for parking or loading purposes.

(k) Signs. All signs relating to off-street parking and loading areas shall conform to the provisions on signs in Chapter 1351. (Ord. 88-64. Passed 10-3-88.)

(l) Illumination. Uses required herein to provide over four (4) parking spaces or one or more loading spaces shall provide, for such spaces as are intended to be commonly used at night, lighting facilities that comply with the regulations contained in Section 1357.10(c)(9) of the Code. (Ord. 14-65 AC CMS. Passed 12-15-14.)

(m) Landscaping and Screening. All uses providing ten or more off-street parking spaces or any loading spaces shall screen such spaces from the view of the street and from adjacent residential property. Such screening shall take the form of a uniformly painted solid fence, wall, landscape screen or combination thereof that provides year-round opacity and that conform to the following requirements:

<u>Location of Parking or Loading Area</u>	<u>Minimum Height (a) of Screening in Feet (b)</u>	<u>Location of Screening</u>
Within 100 feet of a public street (c)		Along entire length of abutting street line except for access ways.
Parking spaces	3	
Loading spaces	5	
Abutting a residential district (d)	5	Along entire length of property line between parking or loading area and the residential district except for access ways.

- (a) Height shall be fence height as defined herein.
- (b) At time of installation.
- (c) Maximum height of screening within thirty feet of an at-grade street or railroad intersection shall be three feet.
- (d) Maximum height of screening at any time shall be seven feet.  
(Ord. 88-64. Passed 10-3-88.)

The Planning Commission may approve a landscaping and screening plan which deviates from the requirements herein, upon a showing that strict adherence to such screening and landscaping requirements will have a detrimental effect upon the safety and welfare of the residents of the City.

All screening and landscaping plans shall be reviewed by and receive the written approval of the City Grounds Director prior to approval of the Commission.  
(Ord. 88-86AC. Passed 12-5-88.)

#### **1349.02 OFF-STREET PARKING PROVISIONS.**

(a) Small Car Parking Spaces. Up to twenty-five percent (25%) of required off-street parking spaces may be of small car parking space dimensions as provided in Table 1, provided that such spaces are clearly identified by signs and pavement markings as intended for small cars only.

(b) Collective Provision. Required parking spaces for different uses may be provided collectively. Except as provided herein under subsections (c) and (f), the total number of spaces so provided shall not be less than the sum of the spaces required for each separate use and no parking space shall serve as the required space for more than one use.

A binding written agreement approved as legally sufficient by the City Law Director shall be filed with an application for a building permit, guaranteeing the intended users of collective parking spaces the right to their use.

(c) Parking for Shopping Centers. The number of parking spaces required for retail and personal service uses located in a shopping center shall be as provided for shopping centers in Table 4 rather than the sum of the spaces required for the individual uses.

Except that the number of spaces for restaurants, taverns and drive-in facilities located in a shopping center and for any establishment occupying over fifty percent (50%) of the net floor area of the center, shall be as provided in Table 4 for these individual uses. This number shall be added to the number of spaces required by Table 4 for shopping centers for the balance of the uses in the center.

(d) **Surfacing of Parking Areas.** All open off-street parking areas and related vehicular access drives and aisles, including residential driveways and widenings thereof, shall be surfaced as follows:

<u>Use</u>	<u>Required Surfacing</u>
Single-family detached dwellings or conversions of such dwellings to rooming houses, accessory apartments or multi-family units (Ord. 11-22 AC CMS. Passed 4-18-11.)	1. Crushed stone, gravel or similar material, or 2. Any surface required for other uses below.
All other uses	Asphalt, concrete, brick, paving block or similar durable, dustless surface including pervious pavement surfaces installed and maintained in accordance with industry and manufacturers' standards.

(Ord. 14-65 AC CMS. Passed 12-15-14.)

The Planning and Development Director may waive the requirement for surfacing herein for a parking area located no less than 400 feet from a residential district that serves a use located in an M Industrial District. (Ord. 11-22 AC CMS. Passed 4-18-11.)

(e) **Marking.** All off-street parking spaces for uses required to provide over four spaces shall be marked by durable painted lines, thermoplastic or similar markings, curbs or other means that clearly designate individual spaces.  
(Ord. 14-65 AC CMS. Passed 12-15-14.)

(f) **Shared Parking.** Off-street parking spaces provided for one use may be credited by the Planning and Development Director toward the spaces required herein for another use that normally operates during different hours. This provision shall apply only to spaces either provided for or to be credited to the following uses and only up to the applicable percentage specified of the total spaces required:

<u>Percentage of Required Spaces that May Be Shared Parking</u>	<u>Use</u>
100	Church Auditorium or school auditorium
50	Bowling alley Dance hall Restaurant Tavern or night club Theater

To be credited, such spaces shall be:

- (1) Included within a parking area that is located no further from the use to which the spaces are to be credited than the walking distances specified in the provision on subsection (i) hereof.
- (2) Not reserved on a twenty-four hour basis for particular individuals, occupants or organizations.

- (3) Included in a written agreement filed with the Planning and Development Director and approved as legally sufficient by the City Law Director that:
- A. Specifically allows the use of such spaces by the use to which they are to be credited, and
  - B. Specifies the type of establishment and normal operating hours - -or hours during which parking spaces proposed for crediting are normally used--seven days a week for all uses sharing such spaces.

If the Planning and Development Director determines that any uses sharing spaces would regularly utilize such spaces during all or some of the same hours, he or she may disallow the crediting of such spaces.

(g) Wheel Guards or Curbing. Where parking spaces are so located that vehicles parked therein might extend beyond the parking surface, such as onto streets, sidewalks or landscaped areas, there shall be installed wheel guards, bumper guards, curbing or other means of restraint to prevent such encroachment. This requirement shall not apply to uses providing four or fewer parking spaces.

(h) Forward Vehicular Motion. Except for dwellings having individual garages or driveways, off-street parking areas shall be designed to enable vehicles to enter or leave such areas moving in a forward direction.

(i) Location of Parking Spaces.

- (1) On same or separate lot. Required off-street parking for single-family detached and attached dwellings and manufactured homes on individual lots shall be provided on the same lot as the use served. Parking spaces within garages or carports and on driveways shall be counted as required spaces for such dwellings.

Required parking for other uses--including rooming houses, dormitories, single-family dwellings with accessory apartments and multifamily dwellings--may also be provided on a separate lot that is in the same possession by deed, lease or other written certification approved as legally sufficient by the City Law Director that confirms its availability to the use. No parking on a separate lot for any nonresidential or nonlodging use shall be separated from the use by any residentially-zoned property not in the same possession as the use.

Required parking shall be located within the following walking distances from the nearest point of the parking area to the nearest pedestrian entrance to the use served:

<u>Use</u>	<u>Feet</u>
Manufactured homes in manufactured home parks, Rooming houses, accessory apartments in single-family dwellings and multi-family residential:	200
Commercial and institutional:	400
Office and industrial:	1,000

## (2) In yards.

## A. Single-family and townhouses.

1. In required yards. Open off-street parking for single-family detached and attached, duplex and townhouse dwellings--and for such dwellings that have been converted to rooming houses, dwellings with accessory apartments or multifamily dwellings--may be located in required front, side and rear yards except as otherwise provided herein.

Where because of the slope of a lot, location of a garage outside of THE required front or corner side yard would necessitate a driveway slope greater than twelve percent (12%), the garage may be located within the required yard a minimum of six feet from the street line.

2. In actual yards. One motor vehicle that is not a commercial or recreational vehicle as defined herein may be parked within an actual front or corner side yard. Additional such vehicles may be so parked provided that coverage of the actual front yard by parking shall not exceed twenty-five percent (25%) of front yard area. All such vehicles not enclosed within a building or carport shall be parked entirely upon a driveway or comparably surfaced widening thereof and shall not encroach upon any public sidewalk.

Any additional motor vehicles shall be parked outside of such yards, provided that coverage of the actual rear yard by parking shall not exceed fifty percent (50%) of yard area. Except that where the dimensions of actual side yards and the absence of an alley preclude vehicular access to the side and rear yards, this restriction shall not apply.

B. Other uses. Open off-street parking for other uses, including multifamily residential, may be located in required side and rear yards, but not in required front yards.

No off-street parking for any such use is permitted within any required yard abutting or across an alley from property in a Single-Family Residential District. No parking for any nonresidential use is permitted within any required yard abutting or across an alley from property in any residential district.

(j) Parking for Single-Family Conversions. Parking requirements for rooming houses, multiple-family dwellings and other uses to which single-family dwellings have been lawfully converted may be satisfied by, among other measures, any of the following:

- (1) Widening of an existing driveway surface, subject to location and maximum coverage provisions in subsection (i) hereof.
- (2) Establishment of a parking pad in a side yard.
- (3) Written agreement with the owner thereof that allows use of an available parking space on a nearby property and that is approved as legally sufficient by the City Law Director.

(Ord. 11-22 AC CMS. Passed 4-18-11.)

(k) Recreational Vehicles. The present regulations in this subsection are hereby repealed and replaced with the regulations noted below:

- (1) In residential districts. A single recreational vehicle as defined herein per dwelling unit may be parked or stored in a residential district provided that:
  - A. The parking or storage of a recreational vehicle must be in a garage or similar enclosed structure or the rear yard area of a residential lot;
  - B. Any recreational vehicle parked or stored in the rear yard of a residential lot be located on an improved surface (including gravel) as referenced in Section 1349.02(d) of the Zoning Code, and shall be adequately screened from view by landscaping or fencing or walls that create an opaque barrier;
  - C. For any recreational vehicle parked or stored in a rear yard area of a residential lot, the recreational vehicle shall be located a minimum setback distance of 3.0 feet from any side or rear lot line;
  - D. Any recreational vehicle shall not be used for living or sleeping purposes unless a permit has been issued by the Oberlin Police Department. A maximum of six (6) permits may be issued for a property in one calendar year. Each permit is valid for a maximum of four (4) consecutive days;
  - E. Fixed connections to electricity, water, sanitary or gas services are not permitted.
  - F. Parking of a recreational vehicle on a City street overnight is prohibited.
  - G. A recreational vehicle may only be parked in a driveway for loading or unloading purposes for a period of not more than twelve (12) hours in any consecutive thirty (30) day period; and
  - H. A recreational vehicle may be parked in a driveway for loading or unloading purposes under subsection (k)(1)G. above and only in that part of the driveway located outside of the public street right-of-way.  
(Ord. 14-65 AC CMS. Passed 12-15-14.)
- (2) In other districts. There shall be no restrictions on parking of recreational vehicles in nonresidential districts, other than those concerning outdoor storage. (Ord. 11-22 AC CMS. Passed 4-18-11.)

(l) Parking of Commercial Vehicles.

- (1) In residential districts. No commercial vehicle as defined under Section 1321.97 of the Zoning Code and weighing more than 8,000 pounds unloaded may be parked or stored in a residential district other than in a completely enclosed garage except for loading or unloading of household belongings between 6:00 am. and midnight for the purpose of moving a personal residence or for deliveries, repairs, construction, maintenance or service calls. Alternatively such commercial vehicles may be parked on an improved surface (including gravel) in the rear yard area of the lot, shall be setback a minimum distance of 3.0 feet from any side or rear lot line, and shall be screened from view of abutting residential properties by an opaque barrier (fencing or landscaping).

- (2) In commercial districts. No commercial vehicle as defined herein may be parked or stored in a commercial district other than in a completely enclosed garage or in an off-street parking facility open to the public unless it is used in a business located on the same premises or is being parked temporarily by a customer, supplier, contractor or visitor or for loading, unloading, moving or construction, maintenance or repair of the premises. The parking or storage of an unhitched semi-trailer or tractor is prohibited. The parking or storage of commercial vehicles with refrigeration equipment within 50 feet of a residential zoning district is prohibited.  
(Ord. 14-65 AC CMS. Passed 12-15-14.)

(m) Handicapped Parking. All uses providing over twenty-five parking spaces shall mark at least one space as reserved for the handicapped. One space shall be so marked for the first fifty spaces and one additional space shall be marked for every 100 spaces thereafter.

All such spaces shall be as close as possible to a building entrance accessible to the handicapped and shall offer barrier-free access thereto. Such spaces shall have sufficient width to allow for wheelchair access to a passenger car or passenger van parked therein.

(Ord. 11-22 AC CMS. Passed 4-18-11.)

#### **1349.03 OFF-STREET LOADING PROVISIONS.**

(a) Location of Loading Spaces. All required loading spaces shall have adequate ingress from and egress to a public street or alley and shall be located:

- (1) On the same lot as the use to be served, except when collectively provided as central loading facilities in conformance with the requirements herein, and
- (2) Outside of required front and side yards, and
- (3) In such a manner that no portion of a vehicle shall project across a public sidewalk or into a street.

(b) Surfacing of Loading Areas. All open off-street loading spaces and related vehicular access drives and aisles shall be surfaced with a hard-surfaced all-weather pavement with a load-bearing capability approved by the Director of Public Works.

(c) Collective Provision. Loading spaces required for individual lots may be collectively provided in central facilities provided that all of the following requirements are met:

- (1) The number of spaces provided is not less than that required by the total floor space for each category of use served.
- (2) Each lot served has direct access to the central facilities without crossing streets at grade.
- (3) The central facilities are not more than 500 feet from any lot they serve.
- (4) Any tunnel or ramp between the central facilities and any lot served is at least nine feet wide and has a vertical clearance of at least seven feet.
- (5) Written covenants and easements approved as legally sufficient by the City Law Director and recorded with the County provide for the retention, maintenance and use of such facilities.  
(Ord. 88-64AC. Passed 10-3-88.)

**TABLE 1: PARKING AND LOADING DIMENSIONS**

	<u>Parking Space</u>		<u>Loading Space (g)</u>	
	<u>For Small Cars(a)</u>	<u>For Other Cars</u>	<u>For Tractor Trailers</u>	<u>For Other Trucks (c)</u>
Minimum <u>depth</u> in feet	15(b)	18(b)	60	25
Minimum <u>width</u> in feet	7.5	9	14	10
Minimum vertical <u>clearance</u> in feet	7	7	14	14
Minimum <u>aisle</u> width in feet:				
Angle of spaces: 0 degrees (d)	13	13		
30 degrees	12	12		
45 degrees	13	13		
60 degrees	18	18		
90 degrees (e)	24	24		

DRIVEWAY WIDTH (f) in feet:

	<u>Residential Districts</u>		<u>Other Districts</u>	
	Minimum	Desired	Minimum	Desired
One—way traffic	9	12	10	14

Minimum driveway distance to street intersection in feet: 50

- (a) Up to twenty-five percent (25%) of required spaces may be for small cars.
- (b) Parallel parking spaces shall be 22 feet deep.
- (c) Permitted for uses not normally serviced by tractor-trailers.
- (d) Zero degrees parking refers to parallel parking.
- (e) Aisle width for 90 degree parking allows for two-way traffic.
- (f) Radii shall be approved by the Planning and Development Director in compliance with standards established by the Director of Public Works.
- (g) Requirements apply to uses required to provide one or more loading spaces by Table 2.
- (h) The Planning Commission may approve to vary these requirements with just cause.
- (i) All driveway widths shall be measured at the right-of-way line and shall maintain at least the minimum required width the entire distance of the driveway.

(Ord. 11-22 AC CMS. Passed 4-18-11.)



**TABLE 2: REQUIRED NUMBER OF OFF-STREET LOADING SPACES**

<u>Type of Use</u>	<u>Building Size (sq. ft.)*</u>	<u>Number of Spaces**</u>
Offices		
Public uses	10,000 — 100,000	1
Institutional uses		
Manufacturing		
Warehousing and storage	5,000 - 40,000	1
Cartage & express	40,001 — 100,000	2
Retail and service	5,000 — 10,000	
	10,001 — 25,000	2
	25,001 — 40,000	3
	40,001 — 100,000	4

\* Building size measured by Net Floor Area, as defined herein

\*\* One additional space shall be provided for every 100,000 square feet over 100,000 square feet, with fractional spaces rounded to the nearest integer.

No space shall at the same time fully or partially serve to meet the requirement for both off-street parking and loading facilities.

Uses smaller than the smallest values given for each category shall be provided with other receiving facilities for motor vehicles judged adequate by the Planning and Development Director.

Requirements of this table shall not apply to C-1 Commercial District as provided under Section 1349.01(d). (Ord. 11-22 AC CMS. Passed 4-18-11.)

**TABLE 3: REQUIRED NUMBER OF OFF-STREET PARKING SPACES  
FOR RESIDENTIAL AND LODGING USES**

<u>RESIDENTIAL (a)</u>	<u>Minimum Number of Spaces Required Per Dwelling or Lodging Unit</u>
Efficiency units	1.25
1-Bedroom units	1.5
All other units	2.0
Small existing Lots (e)	0
<u>LODGING (b)(d)</u>	
Bed and Breakfast Inn	1(g)
Hotel	1(c)
Motel	1(c)
Apartment hotel	1
Rooming house	0.5
Dormitories (f)	
For students allowed to park cars at dormitories	0.5
For all other students	0

See also Table 4 for required spaces for other uses.

Fractional spaces shall be rounded to the nearest integer.

Requirements of this table shall not apply to the C-1 Commercial District as provided under Section 1349.01(d)

- (a) Includes single-family detached or attached, townhouses, duplexes, apartments and manufactured homes. Required spaces include .25 spaces per unit for visitor parking but shall be increased by 1 space for each roomer or lodger. No more than 4 spaces shall be provided per dwelling or lodging unit.
- (b) Plus 1 parking space per owner, manager or employee on largest shift.
- (c) Plus spaces for restaurant, retail and meeting rooms, if any, as provided in Table 4.
- (d) One space for each truck or business vehicle employed by an establishment on the premises shall be provided in addition to the number of spaces indicated in this table.
- (e) Single-family detached dwelling units of any size on existing lots of record as of the effective date of these regulations having a lot width of 40 feet or less and lacking access to an alley.
- (f) Requirement is number of spaces per bed, not per unit.
- (g) Plus 2 spaces for the host dwelling unit.  
(Ord. 88-64AC. Passed 10-3-88; Ord. 14-65 AC CMS. Passed 12-15-14.)
- (h) Bicycle parking standards are also applicable to multiple-family residential, college and other institutional uses other than in the downtown district defined under Section 1349.01(d) of this Code.  
(Ord. 14-65 AC CMS. Passed 12-15-14.)

**NOTES FOR TABLE 4**

Unless otherwise provided herein, required parking is the sum of the requirements in all columns of this Table.

See also Table 3 for required spaces for residential and lodging uses.

Parking for uses not listed shall be as provided for the most similar listed use as determined by the Planning Commission

Requirements of this table shall not apply to the C-1 Commercial District as provided under Section 1349.01(d).

Floor area shall be Net Floor Areas as defined herein. All required space figures shall be prorated for each establishment. Fractional spaces shall be rounded to the nearest integer.

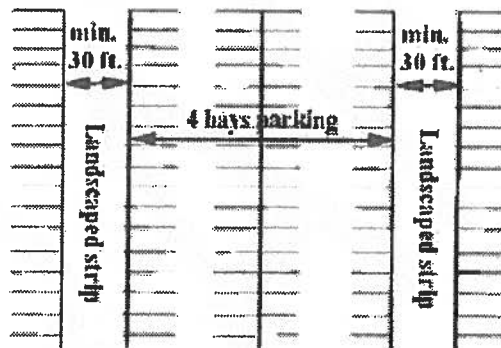
- (a) One space for each truck or business vehicle employed by an establishment on the premises shall be provided in addition to the number of spaces specified.
- (b) Maximum number of full- and part-time employees on duty on the premises at any one time.
- (c) Per seat in main auditorium or meeting room or per person of design capacity of the facility. Eighteen inches of seating space shall be considered a seat for purposes of this requirement where individual seats are not discernable.
- (d) Capacity in full-time students attending classes at any one time.
- (e) Plus 0.5 spaces per bed, excluding bassinets.
- (f) Plus 0.25 spaces per bed.
- (g) Plus 5 stacking spaces per drive-in window.
- (h) 5 spaces per bowling lane.
- (i) Plus stacking spaces equal to 5 times the capacity of the car wash. The capacity shall be calculated as the number of vehicles that can be accommodated at any one time in any phase of the washing or waxing process.
- (j) Employment standard or floor space standard, whichever is greater, shall be used. If employment is not known when plans are drawn, floor space standard may be used. If upon occupancy the employment standard yields a greater number of required spaces, the Planning and Development Director may require the provision of additional parking before granting a certificate of occupancy.
- (k) Plus 2 spaces per service bay.
- (l) Applies to offices generally attracting employees but not customers. Offices that regularly attract customers such as real estate, insurance, tax preparation and the like shall meet the standard for other retail and personal service uses.
- (m) Planning Commission shall determine parking requirements, including such institutional buildings as libraries and auditoriums.  
(Ord. 11-22 AC CMS. Passed 4-18-11.)
- (n) Bicycle parking standards are also applicable to multiple-family residential, college and other institutional uses other than in the downtown district defined under Section 1349.01(d) of this Code.  
(Ord. 14-65 AC CMS. Passed 12-15-14.)



2. In all areas, the Planning Commission has the authority to permit the construction of less parking than required, by Section 1349.03 Table 4 provided that the applicant demonstrates that parking demand is less than required, that space is available and reserved on the site to permit construction of parking in compliance with the requirement, and that the applicant commits to constructing such parking when required by the Planning Commission. This authority would be exercised consistent with the provisions of Section 1349.01(e) of the Zoning Code.
  3. Any request by a property owner for construction of more parking spaces than specified under Section 1349.03 Table 4 of the Code requires the submission of an application to the Planning Commission for approval. Such an application is to include documentation supporting the request based on industry standards, practices and experience. In any event, surface parking areas shall not exceed one hundred and twenty-five percent (125%) of the Code's required minimum number of off-street parking spaces.  
(Ord. 04-72 AC CMS. Passed 11-15-04; Ord. 14-65 AC CMS. Passed 12-15-14.)
  4. Parking areas are encouraged to be designed in other than just a rectilinear manner.
  5. Fifty percent (50%) of all handicap accessible parking should be located so that users do not have to cross lanes of traffic on-site. The remaining fifty percent (50%) of handicap accessible parking should be located in close proximity to the entrance of the structure.
- B. Parking lot access.
1. Parking lots shall only be accessed from approved public or private streets.
  2. All parking lots shall be established with approved easements providing for cross traffic from abutting properties.
  3. Joint curb cuts shall be strongly encouraged to reduce points of traffic conflict on public and private streets. Alternatively a developer must demonstrate why they cannot do this.
  4. Where access to a major thoroughfare or high traffic street or roadway is the only feasible access at the time of construction, such access may be approved as temporary access provided that the parking and drives are designed for adaptation to a planned future street or common drive, and that the property is deed restricted (or guaranteed by bond) to require that the temporary access will be removed when the planned access becomes available.
  5. Access drives and service drives may be located in the front setbacks, provided they do not exceed 16 feet in width and are not closer than 20 feet to the right-of-way. Any access or service drive located in the front setback shall be screened with a continuous double hedge (shrubs arranged in triangular spacing) maintained at a height of 3-4 feet. Loading areas, storage areas, service windows, and similar facilities must be located on the side or rear of the building.
  6. All paved vehicular areas, including but not limited to access drives and parking areas, shall be edged with concrete curbs.

C. Parking lot landscaping.

1. Parking lot visible to the public street: 1 tree per 30 feet of exposed side; 1 evergreen shrub (minimum 3 feet in height at time of planting) per 3 feet of exposed side. The Planning Commission may approve an alternative perimeter landscape plan which incorporates a combination of trees, shrubs, earth mounds, fences, or walls.
2. Interior parking lot landscaping shall be required as follows:
3. Minimum 1 tree per 10 parking space. (This does not include the trees required for the landscape strips below)
4. A landscaped strip not less than 30 feet in width (which may include required bike routes or sidewalks) shall separate each 4 bays (rows) of parking and drives. The landscape strip may include required pedestrian/bike facilities eight (8) feet wide if required by the Planning Commission and shall include a minimum of 1 shade tree per 1500 square feet.





(4) Pedestrian facilities.

- A. On-site pedestrian facilities shall be provided as approved in the site plan, designed with the purpose of encouraging pedestrian access between the main use and the highways and between sites.
- B. Sidewalks shall be constructed along all public street frontages as required by City ordinance.
- C. On each lot, a sidewalk shall be constructed from every street frontage to the main entrance of the building. Where the street frontage of a lot exceeds 400 feet, one additional sidewalk shall be provided for each additional 200 feet of frontage or part thereof.
- D. There shall be a sidewalk along the full length of each façade at least eight (8) feet wide having a customer entrance or along which customers must walk to access the entrance from a parking area.
- E. A pedestrian walkway shall be provided from any area of parking located further than 200 feet from the main entry of the building it serves.
- F. A landscaped seating area shall be provided for each sidewalk (outside of the public right-of-way) having a length of 200 feet or more.

- G. As directed by the Planning Commission, where a pedestrian walkway crosses a main drive or private road, pedestrian crossing signs shall be installed and the walkway shall be raised and paved in a manner which clearly distinguishes the walkway from the vehicle way.
- H. All sidewalks shall be a minimum 5 feet in width.



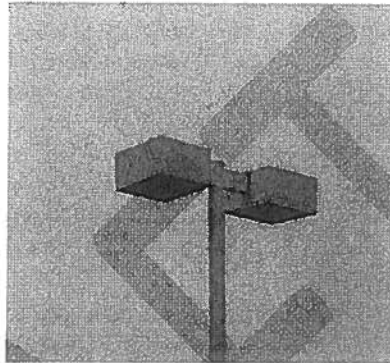
- (5) Bicycle facilities.
  - A. Sites shall be designed to encourage bicycle access and connection to nearby bicycle facilities.  
(Ord. 04-72 AC CMS. Passed 11-15-04.)
  - B. A minimum of one bicycle space is required for every 2,500 sq. ft. of gross floor area for retail and restaurant use; one bicycle space is required for every 5,000 sq. ft. of gross floor area for office space over 10,000 sq. ft. of gross floor area; one bicycle space is required for every 5,000 sq. ft. of gross floor area for places of entertainment, places of worship, hospitals, community facilities and institutional uses including colleges; and one bicycle space is required for 4 dormitory beds at a college.  
(Ord. 14-65 AC CMS. Passed 12-15-14.)
  - C. Bike route signs shall be installed as directed by the Planning Commission.
  - D. All storm water inlet grates shall be of approved bike-safe design (example below).





- E. Location of Bicycle Parking shall be:
  - \* convenient, near entrances to the building, have street access, and not interfere with normal pedestrian and motor vehicle traffic;
  - \* reasonably illuminated and clearly visible from the street;
  - \* designed so that bicyclists do not need to travel over stairs or other obstacles to access bicycle parking;
  - \* on the same lot as the use or within fifty (50) feet of the lot as the use or within fifty (50) feet of the lot if on other private property;
  - \* a minimum width of two (2) feet, length, of six (6) feet, and a minimum overhead clearance of seven (7) feet. An aisle width of five (5) feet between each row of bicycle parking is required. Each space is to be accessible without moving another bicycle.  
(Ord. 14-65 AC CMS. Passed 12-15-14.)
- (6) Special requirements for large buildings. Structures exceeding 100,000 square feet in floor area shall provide the following:
  - A. Bicycle Access: A bikeway or bike lanes must be installed connecting the main entrance of the building to the public street frontage(s) of the lot.
  - B. Public Transit: A public transit access route and transit shelter shall be provided near the main entrance when required by Lorain County Transit System.
- (7) Storm water management.
  - A. Each development shall provide on-site or off-site storm water management facilities as required by City ordinance.
  - B. Underground storage, and the use of "best management practices" such as rain gardens, infiltration trenches, and similar methods are preferred.
  - C. Dry basins are prohibited. Wet basins shall be professionally designed and landscaped to provide an attractive appearance and shall be aerated as necessary to prevent stagnation.
- (8) Utilities. All utilities shall be installed below ground.
- (9) Lighting.
  - A. Lighting shall be limited to the amount necessary to support the uses on the site and to promote safety and security.
  - B. Only approved down lights and cutoff fixtures shall be permitted.
  - C. All lighting under canopies shall be designed as full cut off or down lights designed to light the canopy area only and to prevent external glare.
  - D. No light fixture shall be installed at a height exceeding 16 feet if located nearer than 200 feet to a state highway. In other areas, light fixtures shall not exceed a height of 25 feet.
  - E. All exterior lighting shall be indicated on a site lighting plan submitted for approval. The site lighting plan shall indicate the location of each fixture, the fixture type, the height of the fixture, and a numeric grid of lighting levels, in footcandles, that the fixtures will produce on the ground (photometric report). The lighting plan shall indicate those fixtures which will be operated for security purposes during non-business hours and shall indicate the non-business hours.

- F. Exterior lighting (except public street lighting) shall comply with the following standards:
1. Parking areas: max. 2.0 footcandles
  2. All other areas: max 1.0 footcandles



(10) Landscaping.

- A. Landscape trees shall only be those listed on the City of Oberlin street tree list or approved alternatives. Trees shall be minimum 2" caliper and 8 feet in height at time of planting.
- B. Evergreen shrubs shall be minimum 24" in height at time of planting.
- C. Earth berms shall be varied in setback, height, width, and depth. Unless supported by a wall, rocks, or other approved support, slopes shall not exceed 3:1