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CODIFIED ORDINANCES OF PATASKALA**

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**CODIFIED
ORDINANCES
OF THE
CITY OF
PATASKALA
OHIO**

Local legislation current through August 16, 2021

State legislation current through March 31, 2021

We, Michael W. Compton, Mayor and Kathy M. Hoskinson, Council Clerk, of the City of Pataskala, Ohio, pursuant to Ohio Revised Code 731.23 and 731.42, and Section 4.13 of the Charter, hereby certify that the general and permanent ordinances of the City of Pataskala, Ohio, as revised, rearranged, compiled, renumbered as to sections, codified and printed herewith in component codes are correctly set forth and constitute the Codified Ordinances of the City of Pataskala, Ohio, 2000, as amended to August 16, 2021.

/s/ Michael W. Compton
Mayor

/s/ Kathy M. Hoskinson
Council Clerk

NOTICE

The within CODIFIED ORDINANCES OF THE CITY OF PATASKALA are distributed by The City of Pataskala from time to time without charge to various public locations for various purposes, including the purposes of providing convenient access to the public and increasing awareness of regulations relevant to residency, commerce, and travel within the City of Pataskala.

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CITY OF PATASKALA, OHIO

ROSTER OF OFFICIALS

(2021)

COUNCIL

| | |
|-----------------|-----------------------------|
| Dustin Epperson | At Large |
| Jude Hampshire | At Large |
| Andrew Walther | At Large |
| Thomas H. Lee | First Ward |
| Melissa Carter | Second Ward, Vice President |
| Todd Barstow | Third Ward, President |
| Brandon Galik | Fourth Ward |

ADMINISTRATION

| | |
|--------------------|------------------------------|
| Michael W. Compton | Mayor |
| Timothy Hickin | City Administrator |
| Brian M. Zets | Law Director |
| James M. Nicholson | Finance Director |
| Bruce Brooks | Chief of Police |
| Alan Haines | Director of Public Services |
| Chris Sharrock | Director of Utility Services |
| Scott Fulton | Director of Planning |
| Kathy M. Hoskinson | Clerk of Council |

The publisher
expresses his appreciation

to

KATHY M. HOSKINSON
Clerk of Council

and to all other officials and employees
who gave their time and counsel to
the 2000 codification
of the City's ordinances.

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CHAPTER 121

Mayor

EDITOR'S NOTE: There are no sections in Chapter 121. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Charter provisions -See CHTR. 5.01
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CHAPTER 135
Economic Development Department

**135.01 Economic Development
Department.**

135.01 ECONOMIC DEVELOPMENT DEPARTMENT.

Council hereby creates and establishes the position of Economic Development Director. The job description for this new position is attached as Exhibit A to original Ordinance 2020-4365 and incorporated herein by reference.
(Ord. 2020-4365. Passed 5-18-20.)

- (48) (a) **"Taxpayer"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter/ordinance. "Taxpayer" does not include a grantor trust or, except as provided in division (C)(48)(b)(i) of this section, a disregarded entity.
- (b) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:
- (a) The limited liability company's single member is also a limited liability company.
 - (b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.
 - (c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of ORC 718.01 as that section existed on December 31, 2004.
 - (d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
 - (e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.
- (ii) For purposes of division (C)(48)(b)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least \$400,000.
- (49) **"Taxpayers' rights and responsibilities"** means the rights provided to taxpayers in Sections 171.09, 171.12, 171.13, 171.19(B), 171.20, 171.21, and Sections 5717.011 and 5717.03 of the ORC, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. of the ORC and resolutions, ordinances, and rules and regulations adopted by the City of Pataskala for the imposition and administration of a municipal income tax.
- (50) **"Video lottery terminal"** has the same meaning as in Section 3770.21 of the ORC.
- (51) **"Video lottery terminal sales agent"** means a lottery sales agent licensed under Chapter 3770. of the ORC to conduct video lottery terminals on behalf of the state pursuant to Section 3770.21 of the ORC.
(Ord. 2015-4241. Passed 11-16-15; Ord. 2017-4306. Passed 12-4-17.)

171.03 IMPOSITION OF TAX.

The income tax levied by the City of Pataskala at a rate of one percent (1.0%) is levied on the Municipal Taxable Income of every person residing in and/or earning and/or receiving income in the City of Pataskala.

Individuals

- (A) For residents of the City of Pataskala, the income tax levied herein shall be on all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident. This is further detailed in the definition of income (Section 171.02 (C)(16)).
- (B) For nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.
- (C) For residents and nonresidents, income can be reduced to "Municipal Taxable Income" as defined in Section 171.02 (C)(21). Exemptions which may apply are specified in Section 171.02 (C)(12).

Refundable credit for Nonqualified Deferred Compensation Plan

- (D) (1) As used in this division:
 - (a) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
 - (b) "Qualifying loss" means the amount of compensation attributable to a taxpayer's nonqualified deferred compensation plan, less the receipt of money and property attributable to distributions from the nonqualified deferred compensation plan. Full loss is sustained if no distribution of money and property is made by the nonqualified deferred compensation plan. The taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.
 - (c) (i) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to the City of Pataskala with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

- (5) When an election made under section 718.80 of the Revised Code is terminated, a valid election made under section 718.86 of the Revised Code is binding upon the tax administrator for the remainder of the five-year period.

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

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

- (V) (1) Except as otherwise provided in divisions (V)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in Section 171.02, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.
- (2) No corporation filing a consolidated the City of Pataskala income tax return shall make any adjustment otherwise required under Section (171.02)(C)(1) to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.
- (3) If the net profit or loss of a pass-through entity having at least eighty percent (80%) of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated the City of Pataskala income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:
- (a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in divisions (R) through (Y) of Section 171.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

- (b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in divisions (R) through (Y) of Section 171.05, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.
- (4) If the net profit or loss of a pass-through entity having less than eighty percent (80%) of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:
 - (a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in divisions (R) through (Y) of Section 171.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to the City of Pataskala;
 - (b) The pass-through entity shall be subject to the City of Pataskala income taxation as a separate taxpayer in accordance with this Chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(W) Corporations filing a consolidated the City of Pataskala income tax return shall make the computations required under divisions (R) through (Y) of Section 171.05 by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

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

(Y) Corporations and their affiliates that made an election or entered into an agreement with the City of Pataskala before January 1, 2016, to file a consolidated or combined tax return with the City of Pataskala may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016.
(Ord. 2018-4319. Passed 4-16-18.)

171.06 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

(A) No credit is provided to residents for tax paid to other municipalities.

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

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

(D) Intentionally left blank. (Ord. 2015-4241. Passed 11-16-15.)

171.07 ESTIMATED TAXES.

(A) As used in this section:

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

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

- (a) Taxes withheld for the City of Pataskala from qualifying wages shall be considered as paid to the City of Pataskala in equal amounts on each payment date unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case they shall be considered as paid on the dates on which the amounts were actually withheld.
- (b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

- (2) Taxpayers filing joint returns shall file joint declarations of estimated taxes. A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.
 - (3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 171.05 or on or before the fifteenth (15th) day of the fourth month after the taxpayer becomes subject to tax for the first time.
 - (4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth month after the beginning of each fiscal year or period.
 - (5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.
- (C)
 - (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the City of Pataskala, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:
 - (a) On or before the fifteenth (15th) day of the fourth month after the beginning of the taxable year, twenty-two and one-half (22.5) percent of the tax liability for the taxable year;
 - (b) On or before the fifteenth (15th) day of the sixth month after the beginning of the taxable year, forty-five (45) percent of the tax liability for the taxable year;
 - (c) On or before the fifteenth (15th) day of the ninth month after the beginning of the taxable year, sixty-seven and one-half (67.5) percent of the tax liability for the taxable year;
 - (d) For an individual, on or before the fifteenth (15th) day of the first month of the following taxable year, ninety percent (90%) of the tax liability for the taxable year. For a person other than an individual, on or before the fifteenth (15th) day of the twelfth month of the taxable year, ninety percent (90%) of the tax liability for the taxable year.
 - (2) When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates.
 - (3) On or before the fifteenth (15th) day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with Section 171.05.
- (D)
 - (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 171.18 upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:
 - (a) For the first payment of estimated taxes each year, twenty-two and one-half percent (22.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (b) For the second payment of estimated taxes each year, forty-five percent (45%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

- (c) For the third payment of estimated taxes each year, sixty-seven and one-half percent (67.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
- (d) For the fourth payment of estimated taxes each year, ninety percent (90%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
- (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

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

- (1) The amount of estimated taxes that were paid equals at least ninety percent (90%) of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
- (2) The amount of estimated taxes that were paid equals at least one hundred percent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the City of Pataskala under Section 171.05 for that year.
- (3) The taxpayer is an individual who resides in the City of Pataskala but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.
(Ord. 2017-4306. Passed 12-4-17.)

171.08 ROUNDING OF AMOUNTS.

(A) A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this Chapter. Any fractional part of a dollar that equals or exceeds fifty cents (\$0.50) shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document. (Ord. 2015-4241. Passed 11-16-15.)

171.09 REQUESTS FOR REFUNDS.

(A) As used in this section, "withholding tax" has the same meaning as in Section 171.18.

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

- (1) Overpayments of ten dollars (\$10.00) or more;
- (2) Amounts paid erroneously if the refund requested exceeds ten dollars (\$10.00) or more.

- (C) (1) Except as otherwise provided in this Chapter, requests for refund shall be filed with the Tax Administrator, on the form prescribed by the Tax Administrator within three (3) years after the tax was due or paid, whichever is later. The Tax Administrator may require the requestor to file with the request any documentation that substantiates the requestor's claim for a refund.
- (2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due, and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (C)(3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.
- (3) If the Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 171.21.

CODIFIED ORDINANCES OF PATASKALA

PART THREE - TRAFFIC CODE

TITLE ONE - Administration

Chap. 301. Definitions.

Chap. 303. Enforcement, Impounding and Penalty.

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CHAPTER 301

Definitions

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CROSS REFERENCES

See sectional histories for similar State law
Funeral procession defined - see TRAF. 331.24
Street racing defined - see TRAF. 333.07
Studded tire defined - see TRAF. 339.11
Blind person defined - see TRAF. 371.02
Snowmobile, off-highway motorcycle and all purpose vehicle
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301.01 MEANING OF WORDS AND PHRASES.

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

301.02 AGRICULTURAL TRACTOR.

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

301.03 ALLEY.

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

301.031 BEACON; HYBRID BEACON.

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

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

301.04 BICYCLE; MOTORIZED BICYCLE; MOPED; ELECTRIC BICYCLE.

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

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

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

301.162 HIGHWAY TRAFFIC SIGNAL.

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

301.17 INTERSECTION.

"Intersection" means:

- (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways that join at any other angle might come into conflict. The junction of an alley or driveway with a roadway or highway does not constitute an intersection unless the roadway or highway at the junction is controlled by a traffic control device.
- (b) If a highway includes two roadways that are thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway constitutes a separate intersection. If both intersecting highways include two roadways thirty feet or more apart, then every crossing of any two roadways of such highways constitutes a separate intersection.
- (c) At a location controlled by a traffic control signal, regardless of the distance between the separate intersections as described in subsection (b) of this section:
 - (1) If a stop line, yield line, or crosswalk has not been designated on the roadway within the median between the separate intersections, the two intersections and the roadway and median constitute one intersection.
 - (2) Where a stop line, yield line, or crosswalk line is designated on the roadway on the intersection approach, the area within the crosswalk and any area beyond the designated stop line or yield line constitute part of the intersection.
 - (3) Where a crosswalk is designated on a roadway on the departure from the intersection, the intersection includes the area that extends to the far side of the crosswalk. (ORC 4511.01(KK))

301.18 LANED STREET OR HIGHWAY.

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

301.183 LOW-SPEED MICROMOBILITY DEVICE.

"Low-speed micromobility device" means a device weighing less than 100 pounds that has handlebars, is propelled by an electric motor or human power, and has an attainable speed on a paved level surface of not more than twenty miles per hour when propelled by the electric motor.
(ORC 4511.01(WWW))

301.185 MEDIAN.

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

301.19 MOTORCYCLE.

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

301.20 MOTOR VEHICLE.

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

301.201 OPERATE.

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

301.21 PARK OR PARKING.

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

301.22 PEDESTRIAN.

"Pedestrian" means any natural person afoot. The term includes a personal delivery device as defined in Ohio R.C. 4511.513 unless the context clearly suggests otherwise.
(ORC 4511.01(X))

301.23 PERSON.

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

301.24 POLE TRAILER.

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

301.25 POLICE OFFICER.

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

301.251 PREDICATE MOTOR VEHICLE OR TRAFFIC OFFENSE.

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

- (a) A violation of Ohio R.C. 4511.03, 4511.051, 4511.12, 4511.132, 4511.16, 4511.20, 4511.201, 4511.21, 4511.211, 4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.451, 4511.452, 4511.46, 4511.47, 4511.48, 4511.481, 4511.49, 4511.50, 4511.511, 4511.522, 4511.53, 4511.54, 4511.55, 4511.56, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.66, 4511.661, 4511.68, 4511.70, 4511.701, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, 4511.73, 4511.763, 4511.771, 4511.78 or 4511.84;
- (b) A violation of division (A)(2) of Ohio R.C. 4511.17, divisions (A) to (D) of Ohio R.C. 4511.51, or division (A) of Ohio R.C. 4511.74;
- (c) A violation of any provision of Ohio R.C. 4511.01 to 4511.76 for which no penalty otherwise is provided in the section that contains the provision violated;
- (d) A violation of Ohio R.C. 4511.214.
- (e) A violation of a municipal ordinance that is substantially similar to any section or provision set forth or described in subsection (a) to (d) of this section.
(ORC 4511.01(III))

301.26 PRIVATE ROAD OR DRIVEWAY.

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

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

301.27 PUBLIC SAFETY VEHICLE.

"Public safety vehicle" means any of the following:

- (a) Ambulances, including private ambulance companies under contract to a municipal corporation, township or county and private ambulances and transport vehicles bearing license plates issued under Ohio R.C. 4503.49;
- (b) Motor vehicles used by public law enforcement officers or other persons sworn to enforce the criminal and traffic laws of the State or the Municipality;
- (c) Any motor vehicle when properly identified as required by the Ohio Director of Public Safety, when used in response to fire emergency calls or to provide emergency medical service to ill or injured persons, and when operated by a duly qualified person who is a member of a volunteer rescue service or a volunteer fire department, and who is on duty pursuant to the rules or directives of that service. The Ohio Fire Marshal shall be designated by the Ohio Director of Public Safety as the certifying agency for all public safety vehicles described in this subsection
(c);

- (d) Vehicles used by fire departments, including motor vehicles when used by volunteer fire fighters responding to emergency calls in the fire department service when identified as required by the Ohio Director of Public Safety.
Any vehicle used to transport or provide emergency medical service to an ill or injured person, when certified as a public safety vehicle, shall be considered a public safety vehicle when transporting an ill or injured person to a hospital regardless of whether such vehicle has already passed a hospital.
(ORC 4511.01(E))
- (e) Vehicles used by the Commercial Motor Vehicle Safety Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission as specified in Ohio R.C. 5503.34.

301.28 RAILROAD.

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

301.29 RAILROAD SIGN OR SIGNAL.

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

301.30 RAILROAD TRAIN.

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

301.31 RESIDENCE DISTRICT.

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

301.32 RIGHT OF WAY.

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

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

301.321 ROAD SERVICE VEHICLE.

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

301.33 ROADWAY.

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

301.34 SAFETY ZONE.

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

301.35 SCHOOL BUS.

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

301.36 SEMITRAILER.

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

301.361 SHARED-USE PATH.

"Shared-use path" means a bikeway outside the traveled way and physically separate from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent alignment. A shared-use path also may be used by pedestrians, including skaters, joggers, users of manual and motorized wheelchairs, and other authorized motorized and non-motorized users. A shared-use path does not include any trail that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use. (ORC 4511.01(PPP))

301.37 SIDEWALK.

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

301.38 STATE ROUTE.

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

301.39 STOP (WHEN REQUIRED).

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

301.40 STOPPING OR STANDING.

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

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

301.41 STOP INTERSECTION.

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

301.42 STREET OR HIGHWAY; ARTERIAL STREET.

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

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

301.43 THROUGH STREET OR HIGHWAY.

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

301.44 THRUWAY.

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

301.45 TRAFFIC.

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

301.46 TRAFFIC CONTROL DEVICE.

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

301.47 TRAFFIC CONTROL SIGNAL.

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

301.48 TRAILER.

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

301.49 TRUCK.

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

301.50 URBAN DISTRICT.

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

301.51 VEHICLE.

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

301.52 WHEELCHAIR, MOTORIZED.

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

301.53 WASTE COLLECTION VEHICLE.

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.03)

331.21 RIGHT OF WAY OF PUBLIC SAFETY OR CORONER'S VEHICLE.

(a) Upon the approach of a public safety vehicle or coroner's vehicle, equipped with at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and the driver is giving an audible signal by siren, exhaust whistle or bell, no driver of any other vehicle shall fail to yield the right-of-way, immediately drive if practical to a position parallel to and as close as possible to, the right edge or curb of the street clear of any intersection, and stop and remain in that position until the public safety vehicle or coroner's vehicle has passed, except when otherwise directed by a police officer.

(b) This section does not relieve the driver of a public safety vehicle or coroner's vehicle from the duty to drive with due regard for the safety of all persons and property upon the street.

(c) This section applies to a coroner's vehicle only when the vehicle is operated in accordance with Ohio R.C. 4513.171. As used in this section, "coroner's vehicle" means a vehicle used by a coroner, deputy coroner or coroner's investigator that is equipped with a flashing, oscillating or rotating red or blue light and a siren, exhaust whistle, or bell capable of giving an audible signal.

(d) Except as otherwise provided in this subsection or Section 331.211, whoever violates subsection (a) of this section is guilty of a misdemeanor of the fourth degree on a first offense. On a second offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree, and, on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the second degree. (ORC 4511.45)

331.211 REPORT OF VEHICLE FAILING TO YIELD RIGHT OF WAY TO PUBLIC SAFETY VEHICLE.

(a) When the failure of a motor vehicle operator to yield the right-of-way to a public safety vehicle as required by Section 331.21(a) impedes the ability of the public safety vehicle to respond to an emergency, any emergency personnel in the public safety vehicle may report the license plate number and a general description of the vehicle and the operator of the vehicle to the law enforcement agency exercising jurisdiction over the area where the alleged violation occurred.

- (b) (1) Upon receipt of a report under subsection (a) of this section, the law enforcement agency may conduct an investigation to attempt to determine or confirm the identity of the operator of the vehicle at the time of the alleged violation.
- (2) If the identity of the operator at the time of an alleged violation of Section 331.21(a) is established, the law enforcement agency has probable cause to issue either a written warning or a citation for that violation, and the agency shall issue a written warning or a citation to the operator.

- (3) If the identity of the operator of the vehicle at the time of the alleged violation cannot be established, the law enforcement agency may issue a warning to the person who owned the vehicle at the time of the alleged violation. However, in the case of a leased or rented vehicle, the law enforcement agency shall issue the written warning to the person who leased or rented the vehicle at the time of the alleged violation.
- (c)
 - (1) Whoever violates Section 331.21(a) based on a report filed under subsection (a) of this section is guilty of a minor misdemeanor and shall be fined one hundred fifty dollars (\$150.00).
 - (2) If a person who is issued a citation for a violation of Section 331.21(a) based on a report filed under subsection (a) of this section does not enter a written plea of guilty and does not waive the person's right to contest the citation but instead appears in person in the proper court to answer the charge, the trier of fact cannot find beyond a reasonable doubt that the person committed that violation unless the emergency personnel who filed the report appears in person in the court and testifies.
- (d) As used in this section:
 - (1) "License plate" includes any temporary motor vehicle license registration issued under Ohio R.C. 4503.182 or similar law of another jurisdiction.
 - (2) "Public safety vehicle" does not include an unmarked public safety vehicle or a vehicle used by a public law enforcement officer or other person sworn to enforce the criminal and traffic laws of the State or a vehicle used by the Motor Carrier Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission. (ORC 4511.454)

331.22 DRIVING ONTO ROADWAY FROM PLACE OTHER THAN ROADWAY: DUTY TO YIELD.

(a) Subject to compliance with any traffic control device, the operator of a vehicle about to enter or cross a highway from an alley or from any place other than another roadway shall yield the right of way to all traffic approaching on the roadway to be entered or crossed.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.44)

331.23 DRIVING ONTO ROADWAY FROM PLACE OTHER THAN ROADWAY: STOPPING AT SIDEWALK.

(a) Subject to compliance with any traffic control device, the driver of a vehicle emerging from an alley, building, private road or driveway within a business or residence district shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across the alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon.

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

331.35 OCCUPYING A MOVING TRAILER OR MANUFACTURED OR MOBILE HOME.

(a) No person shall occupy any travel trailer or manufactured or mobile home while it is being used as a conveyance upon a street or highway.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.701)

331.36 SQUEALING TIRES, "PEELING," CRACKING EXHAUST NOISES.

(a) No person shall unnecessarily race the motor of any vehicle and no person shall operate any motor vehicle, except in an emergency, in such a manner that the vehicle is so rapidly accelerated or started from a stopped position that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation, or whereby the tires of such vehicle squeal or leave tire marks on the roadway, commonly called "peeling".

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

331.37 DRIVING UPON SIDEWALKS, STREET LAWNS OR CURBS.

- (a)
- (1) No person shall drive any vehicle, other than a bicycle or an electric bicycle if the motor is not engaged, upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.
 - (2) This prohibition does not apply to a law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, using an electric bicycle with the motor engaged while in the performance of the officer's duties.
 - (3) Nothing in this section shall be construed as prohibiting local authorities from regulating the operation of bicycles or electric bicycles, except that no local authority may require that bicycles or electric bicycles be operated on sidewalks. (ORC 4511.711(A))

(b) No person shall drive a vehicle on a street lawn area or the curb of a street, except upon a permanent or duly authorized temporary driveway or when otherwise lawfully authorized.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.711)

331.38 STOPPING FOR SCHOOL BUS; DISCHARGING CHILDREN.

(a) The driver of a vehicle upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, person attending programs offered by community boards of mental health and County boards of developmental disabilities, or child attending a program offered by a head start agency, shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed.

It is no defense to a charge under this subsection (a) hereof that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by subsection (b) hereof.

(b) Every school bus shall be equipped with amber and red visual signals meeting the requirements of Ohio R.C. 4511.771, and an automatically extended stop warning sign of a type approved by the State Board of Education, which shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, or children attending programs offered by head start agencies. A school bus driver shall not actuate the visual signals or the stop warning sign in designated school bus loading areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs offered by community boards of mental health and County boards of developmental disabilities are loading or unloading at curbside or at buildings when children attending programs offered by head start agencies are boarding or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by rule of the Board.

(c) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, or children attending programs offered by head start agencies. The driver of any vehicle overtaking the school bus shall comply with subsection (a) hereof.

(d) School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, and children attending programs offered by head start agencies on their residence side of the highway.

(e) No school bus driver shall start the driver's bus until after any child, person attending programs offered by community boards of mental health and County boards of developmental disabilities, or child attending a program offered by a head start agency who may have alighted therefrom has reached a place of safety on the child or person's residence side of the road.

(f) As used in this section:

(1) "Head start agency" has the same meaning as in Ohio R.C. 3301.32.

- (2) "School bus", as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the State Board of Education, is painted the color and displays the markings described in Ohio R.C. 4511.77, and is equipped with amber and red visual signals meeting the requirements of Ohio R.C. 4511.771, irrespective of whether or not the bus has fifteen or more children aboard at any time. "School bus" does not include a van owned and operated by a head start agency, irrespective of its color, lights, or markings.
- (g) (1) Whoever violates subsection (a) of this section may be fined an amount not to exceed five hundred dollars (\$500.00). A person who is issued a citation for a violation of subsection (a) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.
- (2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (a)(7) of Ohio R.C. 4510.02. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the Registrar of Motor Vehicles, together with notice of the court's action. (ORC 4511.75)
- (h) Whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (Ord. 2014-4206. Passed 12-1-14.)

331.39 DRIVING ACROSS GRADE CROSSING.

- (a) (1) Whenever any person driving a vehicle approaches a railroad grade crossing, the person shall stop within fifty feet, but not less than fifteen feet from the nearest rail of the railroad, if any of the following circumstances exist at the crossing:
- A. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train.
 - B. A crossing gate is lowered.
 - C. A flagperson gives or continues to give a signal of the approach or passage of a train.
 - D. There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains, notwithstanding any traffic control signal indication to proceed.
 - E. An approaching train is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.

F. There is insufficient undercarriage clearance to safely negotiate the crossing.

- (2) A person who is driving a vehicle and who approaches a railroad grade crossing shall not proceed as long as any of the circumstances described in divisions (a)(1)A. to F. of this section exist at the crossing.

(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed unless the person is signaled by a law enforcement officer or flagperson that it is permissible to do so.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
(ORC 4511.62)

331.40 STOPPING AT GRADE CROSSING.

- (a) (1) Except as provided in subsection (a)(2) hereof, the operator of any bus, any school vehicle, or any vehicle transporting material required to be placarded under 49 CFR Parts 100-185, before crossing at grade any track of a railroad, shall stop the vehicle, and, while so stopped, shall listen through an open door or open window and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, and shall proceed only upon exercising due care after stopping, looking and listening as required by this section. Upon proceeding, the operator of such a vehicle shall cross only in a gear that will ensure there will be no necessity for changing gears while traversing the crossing and shall not shift gears while crossing the tracks.
- (2) This section does not apply at grade crossings when the Ohio Public Utilities Commission has authorized and approved an exempt crossing as provided in this subsection.
- A. Any local authority may file an application with the Commission requesting the approval of an exempt crossing. Upon receipt of such a request, the Commission shall authorize a limited period for the filing of comments by any party regarding the application and then shall conduct a public hearing in the community seeking the exempt crossing designation. The Commission shall provide appropriate prior public notice of the comment period and the public hearing. By registered mail, the Commission shall notify each railroad operating over the crossing of the comment period.
- B. After considering any comments or other information received, the Commission may approve or reject the application. By order, the Commission may establish conditions for the exempt crossing designation, including compliance with division (b) of 49 C.F.R. Part 392.10, when applicable. An exempt crossing designation becomes effective only when appropriate signs giving notice of the exempt designation are erected at the crossing as ordered by the Commission and any other conditions ordered by the Commission are satisfied.
- C. By order, the Commission may rescind any exempt crossing designation made under this section if the Commission finds that a condition at the exempt crossing has changed to such an extent that the continuation of the exempt crossing designation compromises public safety. The Commission may conduct a public hearing to investigate and determine whether to rescind the exempt crossing

designation. If the Commission rescinds the designation, it shall order the removal of any exempt crossing signs and may make any other necessary order.

- (3) As used in this section:
 - A. "School vehicle" means any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.
 - B. "Bus" means any vehicle originally designed by its manufacturer to transport sixteen or more passengers, including the driver, or carries sixteen or more passengers, including the driver.
 - C. "Exempt crossing" means a highway rail grade crossing authorized and approved by the Public Utilities Commission under subsection (a)(2) hereof at which vehicles may cross without making the stop otherwise required by this section.
- (4) Except as otherwise provided in this subsection (a)(4), whoever violates subsection (a) hereof is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) hereof or Ohio R.C. 4511.76, 4511.761, 4511.762, 4511.764, 4511.77 or 4511.79, or a municipal ordinance that is substantially similar to any of those sections, whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 4511.63)
- (b)
 - (1) When authorized stop signs are erected at railroad grade crossings, the operator of any vehicle shall stop within fifty but not less than fifteen feet from the nearest rail of the railroad tracks and shall exercise due care before proceeding across such grade crossing.
 - (2) Except as otherwise provided in this subsection, whoever violates this subsection (b)(1) hereof is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.61)

331.41 SHORTCUTTING; AVOIDING TRAFFIC CONTROL DEVICES.

(a) No person shall operate a vehicle across public or private property marked with signs "No Through Traffic" or words of similar import for the purpose of passing from one roadway to another.

(b) No person shall operate a vehicle across public or private property for the purpose of avoiding compliance with a traffic control device.

(c) It shall be prima-facie evidence of a violation of this section for the operator of a vehicle to cross public or private property as provided herein without using the service of such property, stopping the engine or both.

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

331.42 LITTERING FROM MOTOR VEHICLE.

(a) No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard or deposit litter from any motor vehicle in operation upon any street, road or highway, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

(b) No operator of a motor vehicle in operation upon any street, road or highway shall allow litter to be thrown, dropped, discarded or deposited from the motor vehicle, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

(c) As used in this section, "litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4511.82)

331.43 WEARING EARPLUGS OR EARPHONES PROHIBITED.

(a) As used in this section:

(1) "Earphones" means any device that covers all or a portion of both ears and that does either of the following:

A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;

B. Provides hearing protection.

"Earphones" does not include speakers or other listening devices that are built into protective headgear.

(2) "Earplugs" means any device that can be inserted into one or both ears and that does either of the following:

A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;

B. Provides hearing protection.

(b) No person shall operate a motor vehicle while wearing earphones over, or earplugs in, both ears.

(c) This section does not apply to:

(1) Any person wearing a hearing aid;

(2) Law enforcement personnel while on duty;

(3) Fire Department personnel and emergency medical service personnel while on duty;

(4) Any person engaged in the operation of equipment for use in the maintenance or repair of any highway;

- (3) "Municipal OVI ordinance" and "municipal OVI offense" mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum, or plasma, breath or urine.
- (4) "Community residential sanction", "continuous alcohol monitoring", "jail", "mandatory prison term", "mandatory term of local incarceration", "sanction" and "prison term" have the same meanings as in Ohio R.C. 2929.01.
- (5) "Drug of abuse" has the same meaning as in Ohio R.C. 4506.01.
- (6) "Equivalent offense that is vehicle-related" means an equivalent offense that is any of the following:
 - A. A violation described in subsection (q)(1), (2), (3), (4) or (5) hereof;
 - B. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19;
 - C. A violation of a former law of this state that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19.
(ORC 4511.181)

333.02 OPERATION IN WILLFUL OR WANTON DISREGARD OF SAFETY.

(a) No person shall operate a vehicle on any street or highway in willful or wanton disregard of the safety of persons or property. (ORC 4511.20)

(b) No person shall operate a vehicle on any public or private property other than streets or highways, in willful or wanton disregard of the safety of persons or property.

This subsection does not apply to the competitive operation of vehicles on public or private property when the owner of such property knowingly permits such operation thereon.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.201)

(d) Whenever a person is found guilty under this section of operating a motor vehicle in violation of this section relating to reckless operation, the trial court of any court of record, in addition to or independent of all other penalties provided by law, may impose a class five suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02.
(ORC 4510.15)

333.03 MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD.

(a) No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit the person to bring it to a stop within the assured clear distance ahead.

(b) It is prima-facie lawful, in the absence of a lower limit declared or established pursuant to Ohio R.C. 4511.21 by the Ohio Director of Transportation or Council, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:

- (1) A. Twenty miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when twenty miles per hour school speed limit signs are erected; except, that on controlled-access highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(4) hereof and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(7) hereof. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in the manual and specifications for a uniform system of traffic control devices shall be construed to require school zones to be indicated by signs equipped with flashing or other lights, or giving other special notice of the hours in which the school zone speed limit is in effect.

B. As used in this section, "school" means all of the following:

1. Any school chartered under Ohio R.C. 3301.16;
2. Any nonchartered school that during the preceding year filed with the Department of Education in compliance with O.A.C. § 3301-35-08, a copy of the school's report for the parents of the school's pupils certifying that the school meets state minimum standards for nonchartered, nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone;
3. Any special elementary school that in writing requests the County Engineer to create a school zone at the location of the school. Upon receipt of such written request, the County Engineer shall create a school zone at that location by erecting appropriate signs;
4. Any preschool education program operated by an educational service center that is located on a street or highway with a speed limit of forty-five miles per hour or more, when the educational service center in writing requests that the County Engineer create a school zone at the location of that program. Upon receipt of such a written request, the County Engineer shall create a school zone at that location by erecting the appropriate signs.

C. As used in this section, "school zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway. Upon request from the Municipality for streets and highways under its jurisdiction, the Ohio Director of Transportation may extend the traditional school zone boundaries. The distances in subsections (b)(1)C.1. to 3. hereof shall not exceed 300 feet per approach per direction and are bounded by whichever of the following distances or combinations thereof the Director approves as most appropriate:

The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case. If the offender previously has been convicted of or pleaded guilty to any violation of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

- (2) If the offender's driver's or commercial driver's license or permit or, in a case involving the operation of a motorcycle by the offender, the offender's driver's or commercial driver's license bearing the motorcycle endorsement or the offender's restricted license was expired at the time of the offense, except as otherwise provided in this subsection, the offense is a minor misdemeanor. If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

(d) The court shall not impose a license suspension for a first violation of this section or if more than three years have passed since the offender's last violation of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance.

(e) If the offender is sentenced under subsection (c)(2) hereof, if within three years of the offense the offender previously was convicted of or pleaded guilty to one or more violations of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, and if the offender's license was expired for more than six months at the time of the offense, the court may impose a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.
(ORC 4510.12)

335.02 PERMITTING OPERATION WITHOUT VALID LICENSE; ONE LICENSE PERMITTED.

(a) No person shall permit the operation of a motor vehicle upon any public or private property used by the public for purposes of vehicular travel or parking knowing the operator does not have a valid driver's license issued to the operator by the Registrar of Motor Vehicles or a Deputy Registrar under Ohio R.C. Chapter 4507 or a valid commercial driver's license issued under Ohio R.C. Chapter 4506.

- (b) (1) No person shall receive a driver's license, or a motorcycle operator's endorsement of a driver's or commercial driver's license, temporary instruction permit, or identification card unless and until the person surrenders to the Registrar or a deputy registrar all valid licenses, temporary instruction permits, and identification cards issued to the person by another jurisdiction recognized by this state.
- (2) The Registrar shall report the cancellation of a license, temporary instruction permit, or identification card to the issuing authority, together with information that the license, temporary instruction permit, or identification card is now issued in this state. The Registrar or a deputy registrar shall destroy any such license, temporary instruction permit, or identification card that is not returned to the issuing authority.
- (3) No person shall possess more than one valid license, temporary instruction permit, or identification card at any time.
(ORC 4507.02(A))

- (c) (1) Except as otherwise provided in this subsection, whoever violates subsection (a) hereof is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000) and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case. If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4507.02 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.
- (2) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree. (ORC 4507.02; 4507.99)

335.021 OHIO DRIVER'S LICENSE REQUIRED FOR IN STATE RESIDENTS.

(a) Any person who becomes a resident of this State, within thirty days of becoming a resident, shall surrender any driver's license, temporary instruction permit, or identification card issued by another state to the Registrar of Motor Vehicles or a Deputy Registrar. If such a person intends to operate a motor vehicle upon the public roads or highways, the person shall apply for a temporary instruction permit or driver's license in this State. If the person fails to apply for a driver's license or temporary instruction permit within thirty days of becoming a resident, the person shall not operate any motor vehicle in this municipality under a license or permit issued by another state.

- (b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.
- (2) The offense established under subsection (b)(1) of this section is a strict liability offense and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(c) For purposes of subsection (a) of this section, "resident" means any person to whom any of the following applies:

- (1) The person maintains their principal residence in this State and does not reside in this State as a result of the person's active service in the United States Armed Forces.
- (2) The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the Registrar under Ohio R.C. 4507.01. (ORC 4507.213)

335.03 DRIVING WITH TEMPORARY INSTRUCTION PERMIT; CURFEW.

(a) No holder of a temporary instruction permit issued under Ohio R.C. 4507.05(A) shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in violation of the following conditions:

- (1) If the permit is issued to a person who is at least fifteen years six months of age, but less than sixteen years of age:

- A. The permit and identification card are in the holder's immediate possession;
 - B. The holder is accompanied by an eligible adult who actually occupies the seat beside the permit holder and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Ohio R.C. 4511.19(A);
 - C. The total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.
- (2) If the permit is issued to a person who is at least sixteen years of age:
- A. The permit and identification card are in the holder's immediate possession;
 - B. The holder is accompanied by a licensed operator who is at least twenty-one years of age and is actually occupying a seat beside the driver and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Ohio R.C. 4511.19(A);
 - C. The total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.

(b) Except as provided in subsection (b) hereof, no holder of a temporary instruction permit that is issued under Ohio R.C. 4507.05(A) and that is issued on or after July 1, 1998, and who has not attained the age of eighteen years, shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m.

The holder of a permit issued under Ohio R.C. 4507.05(A) on or after July 1, 1998, who has not attained the age of eighteen years, may operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m. if, at the time of such operation, the holder is accompanied by the holder's parent, guardian, or custodian, and the parent, guardian or custodian holds a current valid driver's or commercial driver's license issued by this State and is actually occupying a seat beside the permit holder, and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Section 333.01(a).

- (c) As used in this section:
- (1) "Eligible adult" means any of the following:
 - A. An instructor of a driver education course approved by the Department of Education or a driver training course approved by the Department of Public Safety;
 - B. Any of the following persons who holds a current valid driver's or commercial driver's license issued by this State:
 - 1. A parent, guardian or custodian of the permit holder;
 - 2. A person twenty-one years of age or older who acts in loco parentis of the permit holder.
 - (2) "Occupant restraining device" has the same meaning as in Ohio R.C. 4513.263.

- (d) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4507.05)

335.031 DRIVING WITH PROBATIONARY LICENSE; CURFEW.

- (a) (1) A. No holder of a probationary driver's license who has held the license for less than twelve months shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m. unless the holder is accompanied by the holder's parent or guardian.
- B. No holder of a probationary driver's license who has held the license for twelve months or longer shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of one a.m. and five a.m. unless the holder is accompanied by the holder's parent or guardian.
- (2) A. Subject to subsection (c)(1) of this section, subsection (a)(1)A. of this section does not apply to the holder of a probationary driver's license who is doing either of the following:
 - 1. Traveling to or from work between the hours of midnight and six a.m. provided that the holder has in the holder's immediate possession written documentation from the holder's employer.
 - 2. Traveling to or from an official function sponsored by the school the holder attends between the hours of midnight and six a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official of the school;
 - 3. Traveling to or from an official religious event between the hours of midnight and six a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official affiliated with the event.
- B. Subsection (a)(1)B. of this section does not apply to the holder of a probationary driver's license who is doing either of the following:
 - 1. Traveling to or from work between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from the holder's employer.
 - 2. Traveling to or from an official function sponsored by the school the holder attends between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official of the school;
 - 3. Traveling to or from an official religious event between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official affiliated with the event.
- (3) An employer, school official or official affiliated with a religious event is not liable in damages in a civil action for any injury, death or loss to person or property that allegedly arises from, or is related to, the fact that the employer, school official, or official affiliated with a religious event provided the holder of a probationary driver's license with the written documentation described in subsection (a)(2) of this section.

The Registrar of Motor Vehicles shall make available at no cost a form to serve as the written documentation described in subsection (a)(2) of this section, and employers, school officials, officials affiliated with religious events, and holders of probationary driver's licenses may utilize that form or may choose to utilize any other written documentation to meet the requirements of that subsection.

- (4) No holder of a probationary driver's license who has held the license for less than twelve months shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking with more than one person who is not a family member occupying the vehicle unless the probationary license holder is accompanied by the probationary license holder's parent, guardian or custodian.

(b) It is an affirmative defense to a violation of subsection (a)(1)A. or B. of this section if, at the time of the violation, an emergency existed that required the holder of the probationary driver's license to operate a motor vehicle in violation of subsection (a)(1)A. or B. of this section; or the holder was an emancipated minor.

- (c)
 - (1) If a person is issued a probationary driver's license prior to attaining the age of seventeen years and the person pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed a moving violation during the six-month period commencing on the date on which the person is issued the probationary driver's license, the court with jurisdiction over the violation may order that the holder must be accompanied by the holder's parent or guardian whenever the holder is operating a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking for a period not to exceed six months or the date the holder attains the age of seventeen years, whichever occurs first.
 - (2) Any person who is subject to the operating restrictions established under subsection (c)(1) of this section as a result of a first moving violation may petition the court for driving privileges without being accompanied by the holder's parent or guardian during the period of time determined by the court under that subsection. In granting the driving privileges, the court shall specify the purposes of the privileges and shall issue the person appropriate forms setting forth the privileges granted. If a person is convicted of, pleads guilty to, or is adjudicated in juvenile court of having committed a second or subsequent moving violation, the court with jurisdiction over the violation may terminate any driving privileges previously granted under this division.
 - (3) No person shall violate any operating restriction imposed under subsection (c)(1) or (2) of this section.

(d) No holder of a probationary license shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking unless the total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.

(e) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether each occupant of the motor vehicle is wearing all of the available elements of a properly adjusted occupant restraining device as required by subsection (d) hereof, or for the sole purpose of issuing a ticket, citation, or summons if the requirement in that subsection has been or is being violated, or for causing the arrest of or commencing a prosecution of a person for a violation of that requirement.

(f) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsection (a)(1)A. or B. hereof has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for such a violation or for causing the arrest of or commencing a prosecution of a person for such violation.

(g) As used in this section:

- (1) "Occupant restraining device" has the same meaning as in Ohio R.C. 4513.263.
- (2) "Family member" of a probationary license holder includes any of the following:
 - A. A spouse;
 - B. A child or stepchild;
 - C. A parent, stepparent, grandparent, or parent-in-law;
 - D. An aunt or uncle;
 - E. A sibling, whether or the whole or half blood or by adoption, a brother-in-law or a sister-in-law;
 - F. A son or daughter of the probationary license holder's stepparent if the stepparent has not adopted the probationary license holder;
 - G. An eligible adult, as defined in Ohio R.C. 4507.05.
- (3) "Moving violation" means any violation of any statute or ordinance that regulates the operation of vehicles, streetcars, or trackless trolleys on the highways or streets. "Moving violation" does not include a violation of Ohio R.C. 4513.263 or a substantially equivalent municipal ordinance, or a violation of any statute or ordinance regulating pedestrians or the parking of vehicles, vehicle size or load limitations, vehicle fitness requirements, or vehicle registration.

(h) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4507.071)

335.032 USE OF ELECTRONIC WIRELESS COMMUNICATION DEVICE PROHIBITED WHILE DRIVING.

(a) No holder of a temporary instruction permit who has not attained the age of eighteen years and no holder of a probationary driver's license shall drive a motor vehicle on any street, highway, or property used by the public for purposes of vehicular traffic or parking while using in any manner an electronic wireless communications device.

(b) Subsection (a) of this section does not apply to either of the following:

- (1) A person using an electronic wireless communications device for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;
- (2) A person using an electronic wireless communications device whose motor vehicle is in a stationary position and the motor vehicle is outside a lane of travel;

- (3) A person using a navigation device in a voice-operated or hands-free manner who does not manipulate the device while driving.
- (c)
 - (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) of this section shall be fined one hundred fifty dollars (\$150.00). In addition, the court shall impose a class seven suspension of the offender's driver's license or permit for a definite period of sixty days.
 - (2) If the person previously has been adjudicated a delinquent child or a juvenile traffic offender for a violation of this section, whoever violates this section shall be fined three hundred dollars (\$300.00). In addition, the court shall impose a class seven suspension of the person's driver's license or permit for a definite period of one year.
- (d) The filing of a sworn complaint against a person for a violation of Ohio R.C. 4511.205 does not preclude the filing of a sworn complaint for a violation of a substantially equivalent municipal ordinance for the same conduct. However, if a person is adjudicated a delinquent child or a juvenile traffic offender for a violation of Ohio R.C. 4511.205 and is also adjudicated a delinquent child or a juvenile traffic offender for a violation of a substantially equivalent municipal ordinance for the same conduct, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.
- (e) As used in this section, "electronic wireless communications device" includes any of the following:
 - (1) A wireless telephone;
 - (2) A personal digital assistant;
 - (3) A computer, including a laptop computer and a computer tablet;
 - (4) A text-messaging device;
 - (5) Any other substantially similar electronic wireless device that is designed or used to communicate via voice, image, or written word.
(ORC 4511.205)

335.04 CERTAIN ACTS PROHIBITED.

- (a) No person shall do any of the following:
 - (1) Display, or cause or permit to be displayed, or possess any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit knowing the same to be fictitious, or to have been canceled, suspended or altered;
 - (2) Lend to a person not entitled thereto, or knowingly permit a person not entitled thereto to use any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit issued to the person so lending or permitting the use thereof;
 - (3) Display or represent as one's own, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit not issued to the person so displaying the same;
 - (4) Fail to surrender to the Registrar of Motor Vehicles, upon the Registrar's demand, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit that has been suspended or canceled;

- (5) In any application for an identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit, or any renewal, reprint, or duplicate thereof, knowingly conceal a material fact, or present any physician's statement required under Ohio R.C. 4507.08 or 4507.081 when knowing the same to be false or fictitious.
- (b) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 4507.30)

335.05 WRONGFUL ENTRUSTMENT OF A MOTOR VEHICLE.

(a) No person shall permit a motor vehicle owned by the person or under the person's control to be driven by another if any of the following apply:

- (1) The offender knows or has reasonable cause to believe that the other person does not have a valid driver's or commercial driver's license or permit or valid nonresident driving privileges.
- (2) The offender knows or has reasonable cause to believe that the other person's driver's or commercial driver's license or permit or nonresident operating privileges have been suspended or canceled under Ohio R.C. Chapter 4510, or any other provision of the Ohio Revised Code or this Traffic Code.
- (3) The offender knows or has reasonable cause to believe that the other person's act of driving the motor vehicle would violate any prohibition contained in Ohio R.C. Chapter 4509.
- (4) The offender knows or has reasonable cause to believe that the other person's act of driving would violate Ohio R.C. 4511.19 or any substantially equivalent municipal ordinance.
- (5) The offender knows or has reasonable cause to believe that the vehicle is the subject of an immobilization waiver order issued under Ohio R.C. 4503.235 and the other person is prohibited from operating the vehicle under that order.

(b) Without limiting or precluding the consideration of any other evidence in determining whether a violation of subsection (a)(1), (2), (3), (4) or (5) of this section has occurred, it shall be prima-facie evidence that the offender knows or has reasonable cause to believe that the operator of the motor vehicle owned by the offender or under the offender's control is in a category described in subsection (a)(1), (2), (3), (4) or (5) of this section if any of the following applies:

- (1) Regarding an operator allegedly in the category described in subsection (a)(1), (3) or (5) of this section, the offender and the operator of the motor vehicle reside in the same household and are related by consanguinity or affinity.
- (2) Regarding an operator allegedly in the category described in subsection (a)(2) of this section, the offender and the operator of the motor vehicle reside in the same household, and the offender knows or has reasonable cause to believe that the operator has been charged with or convicted of any violation of law or ordinance, or has committed any other act or omission, that would or could result in the suspension or cancellation of the operator's license, permit or privilege.
- (3) Regarding an operator allegedly in the category described in subsection (a)(4) of this section, the offender and the operator of the motor vehicle occupied the motor vehicle together at the time of the offense.

(c) Whoever violates this section is guilty of wrongful entrustment of a motor vehicle and shall be punished as provided in subsections (c) to (h) of this section.

- (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a)(1), (2) or (3) of this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02.
- (2)
 - A. If, within three years of a violation of subsection (a)(1), (2) or (3) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of division (A)(1), (2) or (3) of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the offender is guilty of a misdemeanor of the first degree.
 - B. Whoever violates subsection (a)(4) or (5) of this section is guilty of a misdemeanor of the first degree.
- (3) For any violation of this section, in addition to the penalties imposed under Section 303.99, the court may impose a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02, and, if the vehicle involved in the offense is registered in the name of the offender, the court may order one of the following:
 - A. Except as otherwise provided in subsection (c)(3)B. or C. of this section, the court may order, for thirty days, the immobilization of the vehicle involved in the offense and the impoundment of that vehicle's license plates. If issued, the order shall be issued and enforced under Ohio R.C. 4503.233.
 - B. If the offender previously has been convicted of or pleaded guilty to one violation of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the court may order, for sixty days, the immobilization of the vehicle involved in the offense and the impoundment of that vehicle's license plates. If issued, the order shall be issued and enforced under Ohio R.C. 4503.233.
 - C. If the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the court may order the criminal forfeiture to the state of the vehicle involved in the offense. If issued, the order shall be issued and enforced under Ohio R.C. 4503.234.

If title to a motor vehicle that is subject to an order for criminal forfeiture under this subsection is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by

publications of the national automobile dealer's association. The proceeds from any fine imposed under this subsection shall be distributed in accordance with division (C)(2) of Ohio R.C. 4503.234.

(d) If a court orders the immobilization of a vehicle under subsection (c) of this section, the court shall not release the vehicle from the immobilization before the termination of the period of immobilization ordered unless the court is presented with current proof of financial responsibility with respect to that vehicle.

(e) If a court orders the criminal forfeiture of a vehicle under subsection (c) of this section, upon receipt of the order from the court, neither the Registrar of Motor Vehicles nor any deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the order. The period of denial shall be five years after the date the order is issued, unless, during that five-year period, the court with jurisdiction of the offense that resulted in the order terminates the forfeiture and notifies the Registrar of the termination. If the court terminates the forfeiture and notifies the Registrar, the Registrar shall take all necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer the registration of the vehicle.

(f) This section does not apply to motor vehicle rental dealers or motor vehicle leasing dealers, as defined in Ohio R.C. 4549.65.

(g) Evidence of a conviction of, plea of guilty to, or adjudication as a delinquent child for a violation of this section or a substantially similar municipal ordinance shall not be admissible as evidence in any civil action that involves the offender or delinquent child who is the subject of the conviction, plea, or adjudication and that arises from the wrongful entrustment of a motor vehicle.

(h) For purposes of this section, a vehicle is owned by a person if, at the time of a violation of this section, the vehicle is registered in the person's name.
(ORC 4511.203)

335.06 DISPLAY OF LICENSE.

(a) The operator of a motor vehicle shall display the operator's driver's license, or furnish satisfactory proof that the operator has a driver's license, upon demand of any peace officer or of any person damaged or injured in any collision in which the licensee may be involved. When a demand is properly made and the operator has the operator's driver's license on or about the operator's person, the operator shall not refuse to display the license. A person's failure to furnish satisfactory evidence that the person is licensed under Ohio R.C. Chapter 4507 when the person does not have the person's license on or about the person's person shall be prima-facie evidence of the person's not having obtained a driver's license.

(b) (1) Except as provided in subsection (b)(2) hereof, whoever violates this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours.

- The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4507.35 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree. (ORC 4507.35)

335.07 DRIVING UNDER SUSPENSION OR LICENSE RESTRICTION.

(a) Except as provided under subsection (b) hereof and Sections 335.072 and 335.074, no person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under any provision of the Ohio Revised Code, other than Ohio R.C. Chapter 4509, or under any applicable law in any other jurisdiction in which the person's license or permit was issued shall operate any motor vehicle upon the public roads and highways or upon any public or private property used by the public for purposes of vehicular travel or parking within this Municipality during the period of suspension unless the person is granted limited driving privileges and is operating the vehicle in accordance with the terms of the limited driving privileges.

(b) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality in violation of any restriction of the person's driver's or commercial driver's license or permit imposed under division (D) of Ohio R.C. 4506.10 or under Ohio R.C. 4507.14.

(c) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) or (b) of this section may be admitted into evidence as prima-facie evidence that the license of the person was under suspension at the time of the alleged violation of subsection (a) of this section or the person operated a motor vehicle in violation of a restriction at the time of the alleged violation of subsection (b) of this section. The person charged with a violation of subsection (a) or (b) of this section may offer evidence to rebut this prima-facie evidence.

- (d) (1) Whoever violates subsection (a) or (b) hereof, is guilty of a misdemeanor of the first degree. The court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.
- (2) A. Except as provided in subsection (d)(2)B. or C. of this section, the court, in addition to any other penalty that it imposes on the offender and if the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.11 or Ohio R.C. 4510.111 or 4510.16, or a substantially equivalent municipal ordinance, the court, in addition to or independent of any other sentence that it imposes upon the offender, may order the immobilization of the vehicle involved in the offense for thirty days and the impoundment of that vehicle's license plates for thirty days in accordance with Ohio R.C. 4503.233.
- B. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two violations of Ohio R.C. 4510.11 or any combination of two violations of Ohio R.C. 4510.11

or Ohio R.C. 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender may order the immobilization of the vehicle involved in the offense for sixty days and the impoundment of that vehicle's license plates for sixty days in accordance with Ohio R.C. 4503.233.

- C. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 4510.11, or any combination of three or more violations of Ohio R.C. 4501.11 or Ohio R.C. 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender may order the criminal forfeiture of the vehicle involved in the offense to the State.

(e) Any order for immobilization and impoundment under this section shall be issued and enforced under Ohio R.C. 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.

(f) Any order of criminal forfeiture under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of the copy of the order from the court, neither the Ohio Registrar of Motor Vehicles nor a deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order, unless, during that period, the court having jurisdiction of the offense that lead to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar shall then take necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.

(g) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under this section. (ORC 4510.11)

(h) Any person whose driver's or commercial driver's license or permit or nonresident operating privileges are suspended as a repeat traffic offender under this section and who, during the suspension, operates any motor vehicle upon any public roads and highways is guilty of driving under a twelve-point suspension, a misdemeanor of the first degree. The court shall sentence the offender to a minimum term of three days in jail. No court shall suspend the first three days of jail time imposed pursuant to this subsection. (ORC 4510.037)

335.071 DRIVING UNDER OVI SUSPENSION.

(a) No person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under Ohio R.C. 4511.19, 4511.191, or 4511.196 or under Ohio R.C. 4510.07 for a conviction of a violation of a municipal OVI ordinance shall operate any motor vehicle upon the public roads or highways within this Municipality during the period of the suspension.

(b) Whoever violates this section is guilty of driving under OVI suspension. The court shall sentence the offender under Ohio R.C. Chapter 2929, subject to the differences authorized or required by this section.

- (1) Except as otherwise provided in subsection (b)(2) or (3) of this section, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:
 - A. A mandatory jail term of three consecutive days. The three-day term shall be imposed, unless, subject to subsection (c) of this section, the court instead imposes a sentence of not less than thirty consecutive days of house arrest with electronic monitoring. A period of house arrest with electronic monitoring imposed under this subsection shall not exceed six months. If the court imposes a mandatory three-day jail term under this subsection, the court may impose a jail term in addition to that term, provided that in no case shall the cumulative jail term imposed for the offense exceed six months.
 - B. A fine of not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000).
 - C. A license suspension under subsection (e) of this section.
- (2) If, within six years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of this section or one equivalent offense, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:
 - A. A mandatory jail term of ten consecutive days. Notwithstanding the jail terms provided in Ohio R.C. Chapter 2929, the court may sentence the offender to a longer jail term of not more than one year. The ten-day mandatory jail term shall be imposed unless, subject to subsection (c) of this section, the court instead imposes a sentence of not less than ninety consecutive days of house arrest with electronic monitoring. The period of house arrest with electronic monitoring shall not exceed one year.
 - B. Notwithstanding the fines provided for in Ohio R.C. Chapter 2929, a fine of not less than five hundred dollars (\$500.00) and not more than two thousand five hundred dollars (\$2,500).
 - C. A license suspension under subsection (e) of this section.
- (3) If, within six years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of this section or two or more equivalent offenses, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:
 - A. A mandatory jail term of thirty consecutive days. Notwithstanding the jail terms provided in Ohio R.C. Chapter 2929, the court may sentence the offender to a longer jail term of not more than one year. The court shall not sentence the offender to a term of house arrest with electronic monitoring in lieu of the mandatory portion of the jail term.
 - B. Notwithstanding the fines set forth in Ohio R.C. Chapter 2929, a fine of not less than five hundred dollars (\$500.00) and not more than two thousand five hundred dollars (\$2,500).
 - C. A license suspension under subsection (e) of this section.

(c) No court shall impose an alternative sentence of house arrest with electronic monitoring under subsection (b)(1) or (2) of this section unless, within sixty days of the date of sentencing, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the jail term imposed, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing.

An offender sentenced under this section to a period of house arrest with electronic monitoring shall be permitted work release during that period.

(d) Fifty per cent of any fine imposed by a court under subsection (b)(1), (2) or (3) of this section shall be deposited into the county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund under the control of that court, as created by the county or municipal corporation pursuant to division (H) of Ohio R.C. 4511.191.

(e) In addition to or independent of all other penalties provided by law or ordinance, the trial judge of any court of record or the mayor of a mayor's court shall impose on an offender who is convicted of or pleads guilty to a violation of this section a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.

When permitted as specified in Ohio R.C. 4510.021, if the court grants limited driving privileges during a suspension imposed under this section, the privileges shall be granted on the additional condition that the offender must display restricted license plates, issued under Ohio R.C. 4503.231, on the vehicle driven subject to the privileges, except as provided in division (B) of that section.

A suspension of a commercial driver's license under this section shall be concurrent with any period of suspension or disqualification under Ohio R.C. 3123.58 or 4506.16. No person who is disqualified for life from holding a commercial driver's license under Ohio R.C. 4506.16 shall be issued a driver's license under Ohio R.C. Chapter 4507 during the period for which the commercial driver's license was suspended under this section, and no person whose commercial driver's license is suspended under this section shall be issued a driver's license under Ohio R.C. Chapter 4507 during the period of the suspension.

(f) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense that is a misdemeanor of the first degree under this section for which the offender is sentenced. (ORC 4510.14)

- (g) (1) If a person is convicted of or pleads guilty to a violation of a municipal ordinance that is substantially equivalent to Ohio R.C. 4510.14, the court, in addition to and independent of any sentence that it imposes upon the offender for the offense, if the vehicle the offender was operating at the time of the offense is registered in the offender's name, shall do whichever of the following is applicable:
- A. If, within six years of the current offense, the offender has not been convicted of or pleaded guilty to a violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for thirty days of the vehicle involved in the offense and the impoundment for thirty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.
 - B. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for sixty days of the vehicle involved in the offense and the impoundment for sixty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.

- C. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02 or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the criminal forfeiture to the State of the vehicle the offender was operating at the time of the offense.
- (2) An order for immobilization and impoundment of a vehicle under this section shall be issued and enforced in accordance with Ohio R.C. 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.
- (3) An order for criminal forfeiture of a vehicle under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of a copy of the order from the court, neither the Registrar of Motor Vehicles nor a Deputy Registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar then shall take the necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle. (ORC 4510.161)
- (h) As used in this section:
 - (1) "Electronic monitoring" has the same meaning as in Ohio R.C. 2929.01.
 - (2) "Equivalent offense" means any of the following:
 - A. A violation of a municipal ordinance, law of another state, or law of the United States that is substantially equivalent to subsection (a) of this section;
 - B. A violation of a former law of this State that was substantially equivalent to subsection (a) of this section.
 - (3) "Jail" has the same meaning as in Ohio R.C. 2929.01.
 - (4) "Mandatory jail term" means the mandatory term in jail of three, ten, or thirty consecutive days that must be imposed under subsection (b)(1), (2) or (3) of this section upon an offender convicted of a violation of subsection (a) of this section and in relation to which all of the following apply:
 - A. Except as specifically authorized under this section, the term must be served in a jail.
 - B. Except as specifically authorized under this section, the term cannot be suspended, reduced, or otherwise modified pursuant to any provision of the Ohio Revised Code.

**335.072 DRIVING UNDER FINANCIAL RESPONSIBILITY LAW
SUSPENSION OR CANCELLATION; DRIVING UNDER A
NONPAYMENT OF JUDGMENT SUSPENSION.**

- (a) No person, whose driver's or commercial driver's license or temporary instruction permit or nonresident's operating privilege has been suspended or canceled pursuant to Ohio R.C. Chapter 4509, shall operate any motor vehicle within this Municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the Municipality, during the period of the suspension or cancellation, except as specifically authorized by Ohio R.C. Chapter 4509. No person shall operate a motor vehicle within this Municipality, or knowingly

permit any motor vehicle owned by the person to be operated by another person in the Municipality, during the period in which the person is required by Ohio R.C. 4509.45 to file and maintain proof of financial responsibility for a violation of Ohio R.C. 4509.101, unless proof of financial responsibility is maintained with respect to that vehicle.

(b) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality if the person's driver's or commercial driver's license or temporary instruction permit or nonresident operating privilege has been suspended pursuant to Ohio R.C. 4509.37 or 4509.40 for nonpayment of a judgment.

(c) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth and social security number of a person charged with a violation of subsection (a) or (b) of this section may be admitted into evidence as prima-facie evidence that the license of the person was under either a financial responsibility law suspension at the time of the alleged violation of subsection (a) of this section or a nonpayment of judgment suspension at the time of the alleged violation of subsection (b) of this section. The person charged with a violation of subsection (a) or (b) of this section may offer evidence to rebut this prima-facie evidence.

(d) Whoever violates subsection (a) of this section is guilty of driving under financial responsibility law suspension or cancellation and shall be punished as provided in subsection (d) hereof. Whoever violates subsection (b) of this section is guilty of driving under a nonpayment of judgment suspension and shall be punished as provided in subsection (d) hereof.

- (1) Except as otherwise provided in subsection (d)(2) of this section, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.16, or any combination of two violations of Ohio R.C. 4510.16 or Ohio R.C. 4510.11 or 4510.111, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree.
- (3) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section.
(ORC 4510.16)

- (2) Display or display for sale or sell as a dealer or acting on behalf of a dealer, a motor vehicle without having obtained a manufacturer's or importer's certificate, a certificate of title, or an assignment of a certificate of title for it as provided in Ohio R.C. Chapter 4505;
- (3) Fail to surrender any certificate of title or any certificate of registration or license plates upon cancellation of the same by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in Ohio R.C. Chapter 4505;
- (4) Fail to surrender the certificate of title to a clerk of a court of common pleas as provided in Ohio R.C. Chapter 4505 in case of the destruction or dismantling or change of a motor vehicle in such respect that it is not the motor vehicle described in the certificate of title;
- (5) Violate any rules adopted pursuant to Ohio R.C. Chapter 4505;
- (6) Except as otherwise provided in Ohio R.C. Chapter 4505 and Chapter 4517, sell at wholesale a motor vehicle the ownership of which is not evidenced by an Ohio certificate of title, or the current certificate of title issued for the motor vehicle, or the manufacturer's certificate of origin, and all title assignments that evidence the seller's ownership of the motor vehicle, and an odometer disclosure statement that complies with Ohio R.C. 4505.06 and subchapter IV of the "Motor Vehicle Information and Cost Savings Act", 86 Stat. 961 (1972), 15 U.S.C. 1981;
- (7) Operate in this Municipality a motor vehicle knowing that the certificate of title to the vehicle or ownership of the vehicle as otherwise reflected in the automated title processing system has been canceled.

(b) This section does not apply to persons engaged in the business of warehousing or transporting motor vehicles for the purpose of salvage disposition.

(c) Whoever violates this section shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than ninety days, or both. (ORC 4505.18)

335.09 DISPLAY OF LICENSE PLATES OR VALIDATION STICKERS; REGISTRATION.

- (a)
 - (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the rear of the motor vehicle a license plate that displays the distinctive number and registration mark assigned to the motor vehicle by the Ohio Director of Public Safety, including any county identification sticker and any validation sticker when required by and issued under Ohio R.C. 4503.19 and 4503.191. However a commercial tractor shall display the license plate on the front of the commercial tractor.
 - (2) The license plate shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs its visibility.
 - (3) No person to whom a temporary motor vehicle license registration has been issued for the use of a motor vehicle under Ohio R.C. 4503.182, and no operator of that motor vehicle, shall fail to display the temporary motor vehicle license registration in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle.
 - (4) No person shall cover a temporary motor vehicle license registration by any material that obstructs its visibility.
(ORC 4503.21(A))

- (b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.
- (2) The offenses established under subsection (a) of this section are strict liability offenses and Ohio R.C. 2901.20 does not apply. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.
(ORC 4503.21(B), (C))

335.091 OPERATING WITHOUT DEALER OR MANUFACTURER LICENSE PLATES.

(a) No person shall operate or cause to be operated upon a public road or highway a motor vehicle of a manufacturer or dealer unless the vehicle carries and displays a placard, except as provided in Ohio R.C. 4503.21, issued by the Director of Public Safety that displays the registration number of its manufacturer or dealer.

(b) Whoever violates subsection (a) of this section is guilty of illegal operation of a manufacturer's or dealer's motor vehicle, a minor misdemeanor.
(ORC 4549.10)

335.10 EXPIRED OR UNLAWFUL LICENSE PLATES.

(a) No person who is the owner of a motor vehicle which is parked or operated upon the public streets or highways shall fail to annually file the application for registration or to pay the tax therefor, as required by Ohio R.C. Chapter 4503. (ORC 4503.11)

(b) No person shall operate, drive or park upon the public streets or highways a motor vehicle acquired from a former owner who has registered the motor vehicle, while the motor vehicle displays the distinctive number or identification mark assigned to it upon its original registration. (ORC 4549.11)

(c) No person who is the owner of a motor vehicle and a resident of Ohio shall operate, drive or park the motor vehicle upon the public streets or highways, while it displays a distinctive number or identification mark issued by or under the authority of another state, without complying with the laws of Ohio relating to the registration and identification of motor vehicles.
(ORC 4549.12)

(d) No person shall park or operate any vehicle upon any public street or highway upon which is displayed an expired license plate or an expired validation sticker.

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

CHAPTER 371
Pedestrians

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| 371.01 Right of way in crosswalk. 371.02 Right of way of blind person. 371.03 Crossing roadway outside crosswalk; diagonal crossings at intersections. 371.04 Moving upon right half of crosswalk. 371.05 Walking along highways. 371.06 Use of highway for soliciting; riding on out-side of vehicles. 371.07 Right of way on sidewalk. | 371.08 Yielding to public safety vehicle. 371.09 Walking on highway while under the influence. 371.10 On bridges or railroad crossings. 371.11 Persons operating motorized wheelchairs. 371.12 Electric personal assistive mobility devices. 371.13 Operation of personal delivery device on sidewalks and crosswalks. 371.14 Low-speed micromobility devices. |
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CROSS REFERENCES

See sectional histories for similar State law
 Pedestrian defined - see TRAF. 301.22
 Pedestrian prohibited on freeways - see TRAF. 303.06
 Obedience to traffic control devices - see TRAF.
 313.01, 313.03
 Pedestrian control signals - see TRAF. 313.05

371.01 RIGHT OF WAY IN CROSSWALK.

(a) When traffic control signals are not in place, not in operation or are not clearly assigning the right of way, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield or if required by Section 313.09, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(c) Subsection (a) hereof does not apply under the conditions stated in Section 371.03(b).

(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.46)

371.02 RIGHT OF WAY OF BLIND PERSON.

(a) As used in this section "blind person" or "blind pedestrian" means a person having not more than 20/200 visual acuity in the better eye with correcting lenses or visual acuity greater than 20/200 but with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

The driver of every vehicle shall yield the right of way to every blind pedestrian guided by a guide dog, or carrying a cane which is predominately white or metallic in color, with or without a red tip.

(b) No person, other than a blind person, while on any public highway, street, alley or other public thoroughfare shall carry a white metallic cane, with or without a red tip.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.47)

371.03 CROSSING ROADWAY OUTSIDE CROSSWALK; DIAGONAL CROSSINGS AT INTERSECTIONS.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all traffic upon the roadway.

(c) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.

B. A red reflector facing the rear that is visible from all distances from one hundred feet to six hundred feet when directly in front of lawful lower beams of head lamps on a motor vehicle.

- (4) Operate the device on any portion of a street or highway that has an established speed limit of fifty-five miles per hour or more;
- (5) Operate the device upon any path set aside for the exclusive use of pedestrians or other specialized use when an appropriate sign giving notice of the specialized use is posted on the path;
- (6) If under eighteen years of age, operate the device unless wearing a protective helmet on the person's head with the chin strap properly fastened;
- (7) If under sixteen years of age, operate the device unless, during the operation, the person is under the direct visual and audible supervision of another person who is eighteen years of age or older and is responsible for the immediate care of the person under sixteen years of age.

(c) No person who is under fourteen years of age shall operate an electric personal assistive mobility device.

(d) No person shall distribute or sell an electric personal assistive mobility device unless the device is accompanied by a written statement that is substantially equivalent to the following: "WARNING: TO REDUCE THE RISK OF SERIOUS INJURY, USE ONLY WHILE WEARING FULL PROTECTIVE EQUIPMENT - HELMET, WRIST GUARDS, ELBOW PADS, AND KNEE PADS". (ORC 4511.512)

(e) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour. (ORC 4501.01)

(f) Whoever violates subsection (b) or (c) hereof is guilty of a minor misdemeanor and shall be punished as follows:

- (1) The offender shall be fined ten dollars (\$10.00).
- (2) If the offender previously has been convicted of or pleaded guilty to a violation of division (B) or (C) of Ohio R.C. 4511.512 or a substantially similar municipal ordinance, the court, in addition to imposing the fine required under subsection (f)(1) hereof, shall do one of the following:
 - A. Order the impoundment for not less than one day but not more than thirty days of the electric personal assistive mobility device that was involved in the current violation of that section. The court shall order the device to be impounded at a safe indoor location designated by the court and may assess storage fees of not more than five dollars (\$5.00) per day, provided the total storage, processing, and release fees assessed against the offender or the device in connection with the device's impoundment or subsequent release shall not exceed fifty dollars (\$50.00).

- B. If the court does not issue an impoundment order pursuant to subsection (f)(2)A. hereof, issue an order prohibiting the offender from operating any electric personal assistive mobility device on the public streets, highways, sidewalks, and paths and portions of roadways set aside for the exclusive use of bicycles for not less than one day but not more than thirty days.

(g) Whoever violates subsection (d) hereof is guilty of a minor misdemeanor.
(ORC 4511.512)

371.13 OPERATION OF PERSONAL DELIVERY DEVICE ON SIDEWALKS AND CROSSWALKS.

(a) As used in this section:

- (1) "Eligible entity" means a corporation, partnership, association, firm, sole proprietorship, or other entity engaged in business.
- (2) "Personal delivery device" means an electrically powered device to which all of the following apply:
 - A. The device is intended primarily to transport property and cargo on sidewalks and crosswalks.
 - B. The device weighs less than 250 pounds excluding any property or cargo being carried in the device.
 - C. The device has a maximum speed of ten miles per hour.
 - D. The device is equipped with technology that enables the operation of the device with active control or monitoring by a person, without active control or monitoring by a person, or both with or without active control or monitoring by a person.
- (3) "Personal delivery device operator" means an agent of an eligible entity who exercises direct physical control over, or monitoring of, the navigation and operation of a personal delivery device. The phrase does not include, with respect to a delivery or other service rendered by a personal delivery device, the person who requests the delivery or service. The phrase also does not include a person who only arranges for and dispatches a personal delivery device for a delivery or other service.

(b) An eligible entity may operate a personal delivery device on sidewalks and crosswalks so long as all of the following requirements are met:

- (1) The personal delivery device is operated in accordance with all regulations, if any, established by each local authority within which the personal delivery device is operated.
- (2) A personal delivery device operator is actively controlling or monitoring the navigation and operation of the personal delivery device.
- (3) The eligible entity maintains an insurance policy that includes general liability coverage of not less than one hundred thousand dollars (\$100,000) for damages arising from the operation of the personal delivery device by the eligible entity and any agent of the eligible entity.
- (4) The device is equipped with all of the following:
 - A. A marker that clearly identifies the name and contact information of the eligible entity operating the personal delivery device and a unique identification number;
 - B. A braking system that enables the personal delivery device to come to a controlled stop;

- C. If the personal delivery device is being operated between sunset and sunrise, a light on both the front and rear of the personal delivery device that is visible in clear weather from a distance of at least 500 feet to the front and rear of the personal delivery device when directly in front of low beams of headlights on a motor vehicle.

(c) No personal delivery device operator shall allow a personal delivery device to do any of the following:

- (1) Fail to comply with traffic or pedestrian control devices and signals;
- (2) Unreasonably interfere with pedestrians or traffic;
- (3) Transport any hazardous material that would require a permit issued by the Public Utilities Commission;
- (4) Operate on a street or highway, except when crossing the street or highway within a crosswalk.

(d) A personal delivery device has all of the rights and obligations applicable to a pedestrian under the same circumstances, except that a personal delivery device shall yield the right-of-way to human pedestrians on sidewalks and crosswalks.

- (e) (1) No person shall operate a personal delivery device unless the person is authorized to do so under this section and complies with the requirements of this section.
- (2) An eligible entity is responsible for both of the following:
- A. Any violation of this section that is committed by a personal delivery device operator; and
 - B. Any other circumstance, including a technological malfunction, in which a personal delivery device operates in a manner prohibited by divisions (c)(1) to (c)(4) of this section.
- (ORC 4511.513)

371.14 LOW-SPEED MICROMOBILITY DEVICES.

- (a) (1) A low-speed micromobility device may be operated on the public streets, highways, sidewalks, and shared-use paths, and may be operated on any portions of roadways set aside for the exclusive use of bicycles in accordance with this section.
- (2) Except as otherwise provided in this section, those sections of this title that by their nature could apply to a low-speed micromobility device do apply to the device and the person operating it whenever it is operated upon any public street, highway, sidewalk, or shared-use path, or upon any portion of a roadway set aside for the exclusive use of bicycles.
- (b) No operator of a low-speed micromobility device shall do any of the following:
- (1) Fail to yield the right-of-way to all pedestrians at all times;
 - (2) Fail to give an audible signal before overtaking and passing a pedestrian;
 - (3) Operate the device at night unless the device or its operator is equipped with or wearing both of the following:
 - A. A lamp pointing to the front that emits a white light visible from a distance of not less than 500 feet;
 - B. A red reflector facing the rear that is visible from all distances from 100 feet to 600 feet when directly in front of lawful lower beams of head lamps on a motor vehicle.

- (c)
 - (1) No person who is under sixteen years of age shall rent a low-speed micromobility device.
 - (2) No person shall knowingly rent a low-speed micromobility device to a person who is under sixteen years of age.
 - (3) No person shall knowingly rent a low-speed micromobility device on behalf of a person who is under sixteen years of age.
 - (d) No person shall operate a low-speed micromobility device at a speed greater than twenty miles per hour.
 - (e)
 - (1) Whoever violates this section is guilty of a minor misdemeanor.
 - (2) Unless a mens rea is otherwise specified in this section, an offense established under this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of that offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.
 - (f) Notwithstanding subsection (a)(1) of this section, the municipality, may do any of the following:
 - (1) Regulate or prohibit the operation of low-speed micromobility devices on public streets, highways, sidewalks, and shared-use paths, and portions of roadways set aside for the exclusive use of bicycles, under its jurisdiction;
 - (2) Include low-speed micromobility devices that are adapted to expand access for people with various physical limitations into a shared bicycle, shared electric bicycle, or similar vehicle sharing program, under its jurisdiction;
 - (3) Require the owner or operator of a low-speed micromobility device rental service or low-speed micromobility device sharing program to maintain commercial general liability insurance related to the operation of the devices, with limits of up to one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) per aggregate.
(ORC 4511.514)

- (3) A lamp emitting either flashing or steady red light visible from a distance of five hundred feet to the rear shall be used in addition to the red reflector; If the red lamp performs as a reflector in that it is visible as specified in subsection (a)(2) of this section, the red lamp may serve as the reflector and a separate reflector is not required.

(b) Additional lamps and reflectors may be used in addition to those required under subsection (a) of this section, except that red lamps and red reflectors shall not be used on the front of the bicycle or electric bicycle and white lamps and white reflectors shall not be used on the rear of the bicycle or electric bicycle.

(c) Every bicycle or electric bicycle shall be equipped with an adequate brake when used on a street or highway.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.56)

373.07 RIDING BICYCLE ON RIGHT SIDE OF ROADWAY; OBEDIENCE TO TRAFFIC RULES; PASSING.

(a) Every person operating a bicycle or electric bicycle upon a roadway shall ride as near to the right side of the roadway as practicable obeying all traffic rules applicable to vehicles and exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) This section does not require a person operating a bicycle or electric bicycle to ride at the edge of the roadway when it is unreasonable or unsafe to do so. Conditions that may require riding away from the edge of the roadway include when necessary to avoid fixed or moving objects, parked or moving vehicles, surface hazards, or if it otherwise is unsafe or impracticable to do so, including if the lane is too narrow for the bicycle or electric bicycle and an overtaking vehicle to travel safely side by side within the lane.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.55(A))

373.08 RECKLESS OPERATION; CONTROL, COURSE AND SPEED.

(a) No person shall operate a bicycle or electric bicycle:

- (1) Without due regard for the safety and rights of pedestrians and drivers and occupants of all other vehicles, and so as to endanger the life, limb or property of any person while in the lawful use of the streets or sidewalks or any other public or private property;

- (2) Without exercising reasonable and ordinary control over such bicycle or electric bicycle;
- (3) In a weaving or zigzag course unless such irregular course is necessary for safe operation in compliance with law;
- (4) Without both hands upon the handle grips except when necessary to give the required hand and arm signals, or as provided in Section 373.02(d);
- (5) At a speed greater than is reasonable and prudent under the conditions then existing.

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

373.09 PARKING OF BICYCLE.

(a) No person shall park a bicycle or electric bicycle upon a sidewalk in such a manner so as to unduly interfere with pedestrian traffic or upon a roadway so as to unduly interfere with vehicular traffic.

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

373.10 MOTORIZED BICYCLE OPERATION, EQUIPMENT AND LICENSE.

(a) No person shall operate a motorized bicycle upon any street or highway or any public or private property used by the public for purposes of vehicular travel or parking, unless all of the following conditions are met:

- (1) The person is fourteen or fifteen years of age and holds a valid probationary motorized bicycle license issued after the person has passed the test provided for in Ohio R.C. 4511.521, or the person is sixteen years of age or older and holds either a valid commercial driver's license issued under Ohio R.C. Chapter 4506, or a driver's license issued under Ohio R.C. Chapter 4507, or a valid motorized bicycle license issued after the person has passed the test provided for in Ohio R.C. 4511.521, except that if a person is sixteen years of age, has a valid probationary motorized bicycle license and desires a motorized bicycle license, the person is not required to comply with the testing requirements provided for in Ohio R.C. 4511.521;
- (2) The motorized bicycle is equipped in accordance with rules adopted by the Ohio Director of Public Safety and is in proper working order;
- (3) The person, if under eighteen years of age, is wearing a protective helmet on the person's head with the chin strap properly fastened, and the motorized bicycle is equipped with a rear-view mirror; and
- (4) The person operates the motorized bicycle when practicable within three feet of the right edge of the roadway obeying all traffic rules applicable to vehicles.

(b) No person operating a motorized bicycle shall carry another person upon the motorized bicycle.

(c) The protective helmet and rearview mirror required by subsection (a)(3) of this section shall, on and after January 1, 1985, conform with rules adopted by the Ohio Director of Public Safety.

(d) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4511.521)

373.11 PATHS EXCLUSIVELY FOR BICYCLES.

(a) No person shall operate a motor vehicle, snowmobile, or all-purpose vehicle upon any path set aside for the exclusive use of bicycles, when an appropriate sign giving notice of such use is posted on the path.

Nothing in this section shall be construed to affect any rule of the Ohio Director of Natural Resources governing the operation of motor vehicles, snowmobiles, all-purpose vehicles, and bicycles on lands under the Director's jurisdiction.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.713)

373.12 ELECTRIC BICYCLES.

- (a) (1) The operation of a class 1 electric bicycle and a class 2 electric bicycle is permitted on a path set aside for the exclusive use of bicycles or on a shared-use path, unless the Municipality by resolution, ordinance, or rule prohibits the use of a class 1 electric bicycle or class 2 electric bicycle on such a path.
- (2) No person shall operate a class 3 electric bicycle on a path set aside for the exclusive use of bicycles or a shared-use path unless that path is within or adjacent to a highway or the Municipality by resolution, ordinance, or rule authorizes the use of a class 3 electric bicycle on such a path.
- (3) No person shall operate a class 1 electric bicycle, a class 2 electric bicycle or a class 3 electric bicycle on a path that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use, unless the Municipality by resolution, ordinance or rule authorizes the use of a class 1 electric bicycle, a class 2 electric bicycle, or a class 3 electric bicycle on such a path.
- (4) Subsections (a)(2) and (a)(3) of this section do not apply to a law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, using an electric bicycle while in the performance of the officer's duties.
- (b) (1) No person under sixteen years of age shall operate a class 3 electric bicycle; however, a person under sixteen years of age may ride as a passenger on a class 3 electric bicycle that is designed to accommodate passengers.

- (2) No person shall operate or be a passenger on a class 3 electric bicycle unless the person is wearing a protective helmet that meets the standards established by the Consumer Product Safety Commission or the American Society for Testing and Materials.
- (c) (1) Except as otherwise provided in this subsection, whoever operates an electric bicycle in a manner that is prohibited under subsection (a) of this section and whoever violates subsection (b) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
- (2) The offenses established under subsection (c)(1) of this section are strict liability offenses and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (ORC 4511.522)

(c) In a prosecution of an organization for an offense other than one for which strict liability is imposed, it is a defense that the high managerial officer, agent or employee having supervisory responsibility over the subject matter of the offense exercised due diligence to prevent its commission. This defense is not available if it plainly appears inconsistent with the purpose of the section defining the offense.

(d) As used in this section, "organization" means a corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated nonprofit association, estate, trust or other commercial or legal entity. "Organization" does not include an entity organized as or by a governmental agency for the execution of a governmental program. (ORC 2901.23)

501.12 PERSONAL ACCOUNTABILITY FOR ORGANIZATIONAL CONDUCT.

(a) An officer, agent or employee of an organization as defined in Section 501.11 may be prosecuted for an offense committed by such organization, if he acts with the kind of culpability required for the commission of the offense, and any of the following apply:

- (1) In the name of the organization or in its behalf, he engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is of a type for which he has direct responsibility;
- (2) He has primary responsibility to discharge a duty imposed on the organization by law, and such duty is not discharged.

(b) When a person is convicted of an offense by reason of this section, he is subject to the same penalty as if he had acted in his own behalf. (ORC 2901.24)

501.99 PENALTIES FOR MISDEMEANORS.

(a) Financial Sanctions. In addition to imposing court costs pursuant to Ohio R.C. 2947.23, the court imposing a sentence upon an offender for a misdemeanor committed under the Codified Ordinances, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section. If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(1) Restitution.

- A. Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. The court may not impose restitution as a sanction pursuant to this section if the offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.

- B. If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court imposes restitution for the cost of accounting or auditing done to determine the extent of economic loss, the court may order restitution for any amount of the victim's costs of accounting or auditing provided that the amount of restitution is reasonable and does not exceed the value of property or services stolen or damaged as a result of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, or survivor disputes the amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.
 - C. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under Ohio R.C. 3937.18.
 - D. If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five per cent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.
 - E. The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.
- (2) Fines. A fine in the following amount:
- A. For a misdemeanor of the first degree, not more than one thousand dollars (\$1,000);
 - B. For a misdemeanor of the second degree, not more than seven hundred fifty dollars (\$750.00);
 - C. For a misdemeanor of the third degree, not more than five hundred dollars (\$500.00);
 - D. For a misdemeanor of the fourth degree, not more than two hundred fifty dollars (\$250.00);
 - E. For a minor misdemeanor, not more than one hundred fifty dollars (\$150.00).
- (3) Reimbursement of costs of sanctions.
- A. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:
 - 1. All or part of the costs of implementing any community control sanction, including a supervision fee under Ohio R.C. 2951.021;

2. All or part of the costs of confinement in a jail or other residential facility, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined.
 - B. The amount of reimbursement ordered under subsection (a)(3)A. of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that subsection. If the court does not order reimbursement under that subsection, confinement costs may be assessed pursuant to a repayment policy adopted under Ohio R.C. 2929.37. In addition, the offender may be required to pay the fees specified in Ohio R.C. 2929.38 in accordance with that section. (ORC 2929.28)
- (b) Jail Terms.
- (1) Except as provided in Ohio R.C. 2929.22 or 2929.23 of the Revised Code, and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this General Offenses Code, the court shall impose a definite jail term that shall be one of the following:
 - A. For a misdemeanor of the first degree, not more than one hundred eighty days;
 - B. For a misdemeanor of the second degree, not more than ninety days;
 - C. For a misdemeanor of the third degree, not more than sixty days;
 - D. For a misdemeanor of the fourth degree, not more than thirty days.
 - (2) A. A court that sentences an offender to a jail term under this section may permit the offender to serve the sentenced in intermittent confinement or may authorize a limited release of the offender as provided in Ohio R.C. 2929.26(B). The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.
 - B. 1. If a prosecutor, as defined in Ohio R.C. 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.
 2. If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.

- (3) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.
- (4) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to Ohio R.C. 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to Ohio R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and Ohio R.C. 2929.37, both of the following apply:
- A. The court shall specify both of the following as part of the sentence:
1. If the person is presented with an itemized bill pursuant to Ohio R.C. 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.
 2. If the person does not dispute the bill described in subsection (b)(4)A.1. of this section and does not pay the bill by the times specified in Ohio R.C. 2929.37, the clerk of the court may issue a certificate of judgment against the person as described in that section.
- B. The sentence automatically includes any certificate of judgment issued as described in subsection (b)(4)A.2. of this section.
(ORC 2929.24)

(c) Organizations. Regardless of the penalties provided in subsections (a) and (b) hereof, an organization convicted of an offense pursuant to Section 501.11 shall be fined, in accordance with this section. The court shall fix the fine as follows:

| Type of <u>Misdemeanor</u> | Maximum <u>Fine</u> |
|--|------------------------|
| First degree | \$5000.00 |
| Second degree | 4000.00 |
| Third degree | 3000.00 |
| Fourth degree | 2000.00 |
| Minor | 1000.00 |
| Misdemeanor not specifically classified | 2000.00 |
| Minor misdemeanor not specifically classified | 1000.00 |

- (1) When an organization is convicted of an offense that is not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then the penalty so provided shall be imposed in lieu of the penalty provided in this subsection (c).
- (2) When an organization is convicted of an offense that is not specifically classified, and the penalty provided includes a higher fine than the fine that is provided in this subsection (c), then the penalty imposed shall be pursuant to the penalty provided for the violation of the section defining the offense.

- (3) This subsection (c) does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to Section 501.11, either in addition to or in lieu of a fine imposed pursuant to this subsection (c).
(ORC 2929.31)

- (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.
- (e) Subsections (b), (c) and (d) of this section do not apply to any of the following:
 - (1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;
 - (2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Ohio R.C. Chapter 4741;
 - (3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;
 - (4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;
 - (5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Ohio R.C. Chapter 4741.
(ORC 959.131)
- (f) Notwithstanding any section of the Ohio Revised Code that otherwise provides for the distribution of fine moneys, the Clerk of Court shall forward all fines the Clerk collects that are so imposed for any violation of this section to the Treasurer of the municipality, whose county humane society or law enforcement agency is to be paid the fine money as determined under this section. The Treasurer shall pay the fine moneys to the county humane society or the county, township, municipal corporation, or state law enforcement agency in this state that primarily was responsible for or involved in the investigation and prosecution of the violation. If a county humane society receives any fine moneys under this section, the county humane society shall use the fine moneys either to provide the training that is required for humane society agents under Ohio R.C. 1717.061 or to provide additional training for humane society agents.
(ORC 959.131)
- (g)
 - (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 being the owner, keeper or person having control of any animal shall permit such animal to dig or defecate on any public or private property in the City, other than the property of the owner or person in control of such animal, or allow any animal to damage any part of a lawn, tree, shrub, plant, building or other property, other than the property of the owner or person in control of such animal, by means of urination. The foregoing prohibition as to defecation shall not apply when the person in control of such animal immediately removes all feces deposited by it and disposes of the same in a sanitary manner approved by regulation of the Health Commissioner of the Board of Health.

(c) The above prohibition (505.08) shall not apply to real property situated in the City's Agricultural Zoning District or upon property in which agricultural uses are allowed and being conducted.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 2006-3727. Passed 11-6-06.)

505.09 BARKING OR HOWLING ANIMALS.

(a) No person shall negligently keep or harbor any dog which howls, barks, or emits audible sounds that are unreasonably loud or disturbing and which are of such character, intensity, or duration as to disturb the peace and quiet of the neighborhood or to be detrimental to the life and health of any individual.

(b) Whoever violates this section is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense within twelve months.
(Ord. 2009-3920. Passed 8-3-09.)

505.10 ANIMAL BITES; REPORTS AND QUARANTINE.

(a) Whenever any person is bitten by a dog or other animal, report of such bite shall be made to the Health Commissioner within twenty-four hours. Whenever it is reported to the Health Commissioner that any dog or cat has bitten a person, that dog or cat shall be quarantined under an order issued by the Health Commissioner. The dog or cat shall be quarantined by its owner or by a harbinger, or shall be quarantined in a pound or kennel. In all cases, such quarantine shall be under the supervision of the Health Commissioner and shall be at the expense

(e) As used in this section:

(1) "Economic harm" means any of the following:

- A. All direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" as described in this division includes, but is not limited to, all of the following:
 - 1. All wages, salaries, or other compensation lost as a result of the criminal conduct;
 - 2. The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
 - 3. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
 - 4. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.
- B. All costs incurred by the Municipality as a result of, or in making any response to, the criminal conduct that constituted the violation of this section or Section 509.07, including, but not limited to, all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services personnel of the state or the political subdivision.

(2) "School" means any school operated by a board of education or any school for which the state board of education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a violation of this section is committed.

(3) "Weapon of mass destruction" means any of the following:

- A. Any weapon that is designed or intended to cause death or serious physical harm through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;
- B. Any weapon involving a disease organism or biological agent;
- C. Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life;
- D. Any of the following, except to the extent that the item or device in question is expressly excepted from the definition of "destructive device" pursuant to 18 U.S.C. 921(a)(4) and regulations issued under that section:
 - 1. Any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device;
 - 2. Any combination of parts either designed or intended for use in converting any item or device into any item or device described in division (e)(3)D.1. of this section and from which an item or device described in that division may be readily assembled.

(4) "Biological agent" has the same meaning as in Ohio R.C. 2917.33.

(5) "Emergency medical services personnel" has the same meaning as in Ohio R.C. 2133.21.

(6) "Institution of higher education" means any of the following:

- A. A state university or college as defined in Ohio R.C. 3345.12(A)(1), community college, state community college, university branch, or technical college;

- B. A private, nonprofit college, university or other post-secondary institution located in this State that possesses a certificate of authorization issued by the Ohio Board of Regents pursuant to Ohio R.C. Chapter 1713.
- C. A post-secondary institution with a certificate of registration issued by the State Board of Career Colleges and Schools under Ohio R.C. Chapter 3332. (ORC 2917.31)

509.07 MAKING FALSE ALARMS.

(a) No person shall do any of the following:

- (1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;
- (2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;
- (3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.
- (4) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to impede the operation of a critical infrastructure facility.

(b) This section does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. If a violation of this section results in economic harm of one thousand dollars (\$1,000) or more, or if a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony and shall be prosecuted under appropriate State law.

(d) Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.

(e) As used in this section:

- (1) "Critical infrastructure facility" has the same meaning as in Ohio R.C. 2911.21.
- (2) "Economic harm" and "weapon of mass destruction" have the same meaning as in Section 509.06. (ORC 2917.32)

509.08 UNREASONABLY LOUD NOISE.

(a) Definitions. For the purpose of this section, certain words and phrases used herein are defined as follows:

- (1) "Auditory device" means any device that can be used to create a sound that can be heard.
- (2) "Device" means any system or machine devised or constructed to perform one or more tasks.
- (3) "Emergency work" means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- (4) "Musical instrument" means any device designed to produce music.

- (5) "Loud or raucous noise" means any noise or sound that emanates in such manner and/or volume and is of such intensity, character and duration to be offensive or disturbing to a person of ordinary sensibilities.
- (6) "Machine" means any system or device together with its power source and auxiliary equipment used to accomplish a specific objective.
- (7) "Person" means any public corporation, private corporation, individual, firm, partnership, association or other entity.
- (8) "Property line" means the line along the ground surface, and its vertical extension, which separates the real property owned, rented, leased or occupied by one or more persons from that owned, rented, leased or occupied by another person and the imaginary line which represents the legal limits of property of any person who owns, rents, leases or otherwise occupies an apartment, condominium, hotel or motel room or any other type of occupancy.
- (9) "Property zoned residential" means any area zoned or utilized for residential purposes.
- (10) "Sound amplification system" means any device used for the amplification of the human voice, music, or other sound and includes, but is not limited to, any radio, tape player, compact disc player or loud speaker.
- (11) "Stationary sound source" means a machine or device capable of creating a noise level at the property upon which it is regularly located, including, but not limited to standing motor vehicles, industrial and commercial process machinery and equipment, pumps, fans, air-conditioning apparatus or refrigeration machines.
- (12) "Warning device" means any device, which signals an unsafe or potentially dangerous situation.

(b) No person shall make or allow to be made any unreasonably loud and/or raucous noise in such a manner or at such a volume as to disturb the quiet, comfort, or repose of a person of ordinary sensibilities. Strict liability is intended to be imposed for this section.

(c) In addition to the prohibition set out in (a), the following specific acts are declared to be in violation of this section:

- (1) No person shall operate or permit the operation of any sound amplification system, auditory device, or stationary sound source from real property that is zoned residential in a manner as to be heard at a distance of fifty (50) feet beyond the property line of the property from which the sound emanates. Strict liability is intended to be imposed for this section.
- (2) Where there are two (2) or more residential units contained within one (1) structure within a property zoned residential, no person shall operate or permit the operation of any sound amplification system, auditory device, or stationary sound source in a manner as to be heard within said structure at a distance of twenty-five (25) feet beyond the property line of the residential unit from which the sound emanates. Strict liability is intended to be imposed for this section.
- (3) Where there are adjoining properties that are zoned residential, each of which has a residential unit, and where the residential units are located within fifty (50) feet of one another, no person shall operate or permit the operation of any sound amplification system, auditory device, or stationary sound source in a manner as to be heard at a distance of twenty-five (25) feet onto the adjoining residential property. Strict liability is intended to be imposed for this section.

- (d) This section shall not apply to the following:
- (1) The emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work.
 - (2) Warning devices necessary for the protection of public safety.
 - (3) Outdoor gatherings, public dances, shows, and sporting and entertainment events, provided these events are conducted pursuant to a permit or license issued by the City.
 - (4) The emission of sound from property zoned residential that is periodically generated by activities required to maintain the property in compliance with Housing, Building, Zoning, Fire, Safety, Health or Sanitation Codes and which occurs on weekdays between the hours of 7 a.m. to 9 p.m. and on weekends between the hours of 8 a.m. and 8 p.m.
 - (5) The emissions of sound generated by permitted agricultural practices from a property, as well as from hunting activities permitted under Section 505.11 and discharging firearms activities under Section 549.08.

(e) Whoever violates this section is guilty of a minor misdemeanor. If the offender persists in making or allowing to be made unreasonably loud and/or raucous noise after reasonable warning or request to desist within a twelve hour period, violation of this section is a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of this section, a violation of this section is a misdemeanor of the fourth degree.
(Ord. 2004-3535. Passed 2-17-04.)

509.99 PENALTY.

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

- (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidiny]-N-phenylacetamide); and
- (15) Any compound that meets all of the following fentanyl pharmacophore requirements to bind at the mu receptor, as identified by a report from an established forensic laboratory, including acetylfentanyl, furanylfentanyl, valerylfentanyl, butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, para-fluorobutyrylfentanyl, acrylfentanyl, and ortho-fluorofentanyl:
 - A. A chemical scaffold consisting of both of the following:
 - 1. A five, six, or seven member ring structure containing a nitrogen, whether or not further substituted;
 - 2. An attached nitrogen to the ring, whether or not that nitrogen is enclosed in a ring structure, including an attached aromatic ring or other lipophilic group to that nitrogen.
 - B. A polar functional group attached to the chemical scaffold, including but not limited to a hydroxyl, ketone, amide, or ester;
 - C. An alkyl or aryl substitution off the ring nitrogen of the chemical scaffold; and
 - D. The compound has not been approved for medical use by the United States food and drug administration.
- (w) "Harmful intoxicant." Does not include beer or intoxicating liquor, but means any of the following:
 - (1) Any compound, mixture, preparation or substance the gas, fumes or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation or other harmful physiological effects, and includes but is not limited to any of the following:
 - A. Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline or other preparation containing a volatile organic solvent.
 - B. Any aerosol propellant.
 - C. Any fluorocarbon refrigerant.
 - D. Any anesthetic gas.
 - (2) Gamma Butyrolactone;
 - (3) 1,4 Butanediol.
- (x) "Hashish".
 - (1) A resin or a preparation of a resin to which both of the following apply:
 - A. It is contained in or derived from any part of the plant of the genus cannabis, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.
 - B. It has a delta-9 tetrahydrocannabinol concentration of more than 0.3%.
 - (2) The term does not include a hemp byproduct in the possession of a licensed hemp processor under Ohio R.C. Chapter 928, provided that the hemp byproduct is being produced, stored, and disposed of in accordance with rules adopted under Ohio R.C. 928.03.
- (y) "Hypodermic." Has the same meaning as in Ohio R.C. 3719.01.
- (z) "Juvenile." A person under eighteen years of age.
- (aa) "Licensed health professional authorized to prescribe drugs." Has the same meaning as in Ohio R.C. 4729.01.
- (bb) "L.S.D." Lysergic acid diethylamide.
- (cc) "Major drug offender." Has the same meaning as in Ohio R.C. 2929.01.

- (dd) "Mandatory prison term." Has the same meaning as in Ohio R.C. 2929.01.
- (ee) "Manufacture." To plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production.
- (ff) "Manufacturer." Has the same meaning as in Ohio R.C. 3719.01.
- (gg) "Marihuana." Has the same meaning as in Ohio R.C. 3719.01, except that it does not include hashish.
- (hh) "Methamphetamine." Methamphetamine, any salt, isomer or salt of an isomer of methamphetamine, or any compound, mixture, preparation or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.
- (ii) "Minor drug possession offense." Either of the following:
 - (1) A violation of Ohio R.C. 2925.11, as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance.
 - (2) A violation of Ohio R.C. 2925.11, as it exists on and after July 1, 1996, or a substantially equivalent municipal ordinance, that is a misdemeanor or a felony of the fifth degree.
- (jj) "Official written order." Has the same meaning as in Ohio R.C. 3719.01.
- (kk) "Person." Has the same meaning as in Ohio R.C. 3719.01.
- (ll) "Pharmacist." Has the same meaning as in Ohio R.C. 3719.01.
- (mm) "Pharmacy." Has the same meaning as in Ohio R.C. 3719.01.
- (nn) "Possess" or "possession." Having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.
- (oo) "Prescription." Has the same meaning as in Ohio R.C. 4729.01.
- (pp) "Presumption for a prison term" or "presumption that a prison term shall be imposed." A presumption as described in Ohio R.C. 2929.13(D) that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under Ohio R.C. 2929.11.
- (qq) "Professional license." Any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate or temporary registration that is described in Ohio R.C. 2925.01(W)(1) to (W)(37) and that qualifies a person as a professionally licensed person.
- (rr) "Professionally licensed person." Any of the following:
 - (1) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under Ohio R.C. Chapter 4701 and who holds an Ohio permit issued under that chapter;
 - (2) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Ohio R.C. Chapter 4703;
 - (3) A person who is registered as a landscape architect under Ohio R.C. Chapter 4703 or who holds a permit as a landscape architect issued under that chapter;
 - (4) A person licensed under Ohio R.C. Chapter 4707;
 - (5) A person who has been issued a certificate of registration as a registered barber under Ohio R.C. Chapter 4709;
 - (6) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Ohio R.C. Chapter 4710;

- (7) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, advanced cosmetologist's license, advanced hair designer's license, advanced manicurist's license, advanced esthetician's license, advanced natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under Ohio R.C. Chapter 4713;
- (8) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license or a dental hygienist's teacher's certificate under Ohio R.C. Chapter 4715;
- (9) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under Ohio R.C. Chapter 4717;
- (10) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Ohio R.C. Chapter 4723;
- (11) A person who has been licensed to practice optometry or to engage in optical dispensing under Ohio R.C. Chapter 4725;
- (12) A person licensed to act as a pawnbroker under Ohio R.C. Chapter 4727;
- (13) A person licensed to act as a precious metals dealer under Ohio R.C. Chapter 4728;
- (14) A person licensed under Ohio R.C. Chapter 4729 as a pharmacist or pharmacy intern or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;
- (15) A person licensed under Ohio R.C. Chapter 4729 as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs;
- (16) A person who is authorized to practice as a physician assistant under Ohio R.C. Chapter 4730;
- (17) A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under Ohio R.C. Chapter 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;
- (18) A person licensed as a psychologist or school psychologist under Ohio R.C. Chapter 4732;
- (19) A person registered to practice the profession of engineering or surveying under Ohio R.C. Chapter 4733;
- (20) A person who has been issued a license to practice chiropractic under Ohio R.C. Chapter 4734;
- (21) A person licensed to act as a real estate broker or real estate salesperson under Ohio R.C. Chapter 4735;
- (22) A person registered as a registered environmental health specialist under Ohio R.C. Chapter 4736;
- (23) A person licensed to operate or maintain a junkyard under Ohio R.C. Chapter 4737;
- (24) A person who has been issued a motor vehicle salvage dealer's license under Ohio R.C. Chapter 4738;
- (25) A person who has been licensed to act as a steam engineer under Ohio R.C. Chapter 4739;

- (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Ohio R.C. Chapter 4741;
- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Ohio R.C. Chapter 4747;
- (28) A person who has been issued a class A, class B or class C license or who has been registered as an investigator or security guard employee under Ohio R.C. Chapter 4749;
- (29) A person licensed to practice as a nursing home administrator under Ohio R.C. Chapter 4751;
- (30) A person licensed to practice as a speech-language pathologist or audiologist under Ohio R.C. Chapter 4753;
- (31) A person issued a license as an occupational therapist or physical therapist under Ohio R.C. Chapter 4755;
- (32) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under Ohio R.C. Chapter 4757;
- (33) A person issued a license to practice dietetics under Ohio R.C. Chapter 4759;
- (34) A person who has been issued a license or limited permit to practice respiratory therapy under Ohio R.C. Chapter 4761;
- (35) A person who has been issued a real estate appraiser certificate under Ohio R.C. Chapter 4763;
- (36) A person who has been issued a home inspector license under Ohio R.C. Chapter 4764;
- (37) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.
- (ss) "Public premises." Any hotel, restaurant, tavern, store, arena, hall or other place of public accommodation, business, amusement or resort.
- (tt) "Sale." Has the same meaning as in Ohio R.C. 3719.01.
- (uu) "Sample drug." A drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.
- (vv) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" or "Schedule V." Have the same meaning as in Ohio R.C. 3719.01.
- (ww) "School." Any school operated by a board of education, any community school established under Ohio R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.
- (xx) "School building." Any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.
- (yy) "School premises." Either of the following:
 - (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed.

(b) No person, without privilege to do so, shall knowingly deposit litter, or cause it to be deposited, in a litter receptacle located on any public property or on any private property not owned by him, unless one of the following applies:

- (1) The litter was generated or located on the property on which the litter receptacle is located.
- (2) The person is directed to do so by a public official as part of a litter collection drive.
- (3) The person is directed to do so by a person whom he reasonably believes to have the privilege to use the litter receptacle.
- (4) The litter consists of any of the following:
 - A. The contents of a litter bag or container of a type and size customarily carried and used in a motor vehicle;
 - B. The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle;
 - C. Beverage containers and food sacks, wrappings and containers of a type and in an amount that reasonably may be expected to be generated during routine commuting or business or recreational travel by a motor vehicle;
 - D. Beverage containers, food sacks, wrappings, containers and other materials of a type and in an amount that reasonably may be expected to be generated during a routine day by a person and deposited in a litter receptacle by a casual passerby.

- (c)
 - (1) As used in subsection (b)(1) hereof, "public property" includes any private property open to the public for the conduct of business, the provision of a service, or upon the payment of a fee but does not include any private property to which the public otherwise does not have a right of access.
 - (2) As used in subsection (b)(4) hereof, "casual passerby" means a person who does not have depositing litter in a litter receptacle as his primary reason for traveling to or by the property on which the litter receptacle is located.

(d) As used in this section:

- (1) "Auxiliary container" means a bag, can, cup, food or beverage service item, container, keg, bottle, or other packaging to which all of the following apply:
 - A. It is designed to be either single use or reusable.
 - B. It is made of cloth, paper, plastic, foamed or expanded plastic, cardboard, corrugated material, aluminum, metal, glass, postconsumer recycled material, or similar materials or substances, including coated, laminated, or multilayered substrates.
 - C. It is designed for consuming, transporting, or protecting merchandise, food, or beverages from or at a food service operation, retail food establishment, grocery, or any other type of retail, manufacturing, or distribution establishment.
 - (2) "Deposit" means to throw, drop, discard, or place.
 - (3) "Litter" includes garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, auxiliary containers, or anything else of an unsightly or unsanitary nature.
 - (4) "Litter receptacle" means a dumpster, trash can, trash bin, garbage can, or similar container in which litter is deposited for removal.
- (ORC 3767.32)

(e) No person shall cause or allow litter to be collected or remain in any place to the damage or prejudice of others or of the public, or unlawfully obstruct, impede, divert, corrupt or render unwholesome or impure, any natural watercourse.

(f) Whoever violates any provision of subsections (a) to (d) hereof, is guilty of a misdemeanor of the third degree. The sentencing court may, in addition to or in lieu of the penalty provided in this subsection require a person who violates subsections (a) to (d) hereof to remove litter from any public or private property, or in or on any waters.
(ORC 3767.99(C))

(g) Whoever violates subsection (e) hereof is guilty of a minor misdemeanor.

521.09 NOXIOUS OR OFFENSIVE ODORS.

(a) No person shall erect, continue, use or maintain a dwelling, building, structure or place for a residence or for the exercise of a trade, employment or business, or for the keeping or feeding of an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort or property of individuals or of the public.
(ORC 3767.13)

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

521.10 NONSMOKING AREAS IN PLACES OF PUBLIC ASSEMBLY.

(a) As used in this section, "place of public assembly" means:

- (1) Enclosed theaters, except the lobby; opera houses; auditoriums; classrooms; elevators; rooms in which persons are confined as a matter of health care, including but not limited to a hospital room and a room in a rest home serving as the residence of a person living in such rest home;
- (2) All buildings and other enclosed structures owned by the State, its agencies or political subdivisions, including but not limited to hospitals and State institutions for the mentally ill and persons with intellectual disabilities; university and college buildings, except rooms within those buildings used primarily as the residences of students or other persons affiliated with the university or college; office buildings; libraries; museums; and vehicles used in public transportation. That portion of a building or other enclosed structure that is owned by the State, a State agency or a political subdivision and that is used primarily as a food service establishment is not a place of public assembly.
- (3) Each portion of a building or enclosed structure that is not included in subsection (a)(1) or (2) hereof is a place of public assembly if it has a seating capacity of fifty or more persons and is available to the public. Restaurants, food service establishments, dining rooms, cafes, cafeterias or other rooms used primarily for the service of food, as well as bowling alleys and places licensed by the Department of Liquor Control to sell intoxicating beverages for consumption on the premises, are not places of public assembly.

(b) No law enforcement, ministerial or judicial officer shall negligently fail to perform a lawful duty in a criminal case or proceeding.

(c) No officer, having charge of a detention facility, shall negligently do any of the following:

- (1) Allow the detention facility to become littered or unsanitary;
- (2) Fail to provide persons confined in the detention facility with adequate food, clothing, bedding, shelter and medical attention;
- (3) Fail to control an unruly prisoner, or to prevent intimidation of or physical harm to a prisoner by another;
- (4) Allow a prisoner to escape;
- (5) Fail to observe any lawful and reasonable regulation for the management of the detention facility.

(d) No public official of the Municipality shall recklessly create a deficiency, incur a liability or expend a greater sum than is appropriated by the legislative authority of the Municipality for the use in any one year of the department, agency or institution with which the public official is connected.

(e) No public servant shall recklessly fail to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office.

(f) Whoever violates this section is guilty of dereliction of duty, a misdemeanor of the second degree.

(g) As used in this section, "public servant" includes an officer or employee of a contractor as defined in Ohio R.C. 9.08.

525.13 INTERFERING WITH CIVIL RIGHTS.

(a) No public servant, under color of the public servant's office, employment, or authority, shall knowingly deprive, or conspire or attempt to deprive any person of a constitutional or statutory right.

(b) Whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree. (ORC 2921.45)

525.14 UNAUTHORIZED DISPLAY OF LAW ENFORCEMENT EMBLEMS ON MOTOR VEHICLES.

(a) No person who is not entitled to do so shall knowingly display on a motor vehicle the emblem of a law enforcement agency or an organization of law enforcement officers.

(b) Whoever violates this section is guilty of the unlawful display of the emblem of a law enforcement agency or an organization of law enforcement officers, a minor misdemeanor. (ORC 2913.441)

525.15 ASSAULTING POLICE DOG OR HORSE OR AN ASSISTANCE DOG.

(a) No person shall knowingly cause, or attempt to cause, physical harm to a police dog or horse in either of the following circumstances:

- (1) The police dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted.
 - (2) The police dog or horse is not assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a police dog or horse.
- (b) No person shall recklessly do any of the following:
- (1) Taunt, torment, or strike a police dog or horse;
 - (2) Throw an object or substance at a police dog or horse;
 - (3) Interfere with or obstruct a police dog or horse, or interfere with or obstruct a law enforcement officer who is being assisted by a police dog or horse, in a manner that does any of the following:
 - A. Inhibits or restricts the law enforcement officer's control of the police dog or horse;
 - B. Deprives the law enforcement officer of control of the police dog or horse;
 - C. Releases the police dog or horse from its area of control;
 - D. Enters the area of control of the police dog or horse without the consent of the law enforcement officer, including placing food or any other object or substance into that area;
 - E. Inhibits or restricts the ability of the police dog or horse to assist a law enforcement officer.
 - (4) Engage in any conduct that is likely to cause serious physical injury or death to a police dog or horse.
 - (5) If the person is the owner, keeper, or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police dog or horse that at the time of the conduct is assisting a law enforcement officer in the performance of the officer's duties or that the person knows is a police dog or horse.
- (c) No person shall knowingly cause, or attempt to cause, physical harm to an assistance dog in either of the following circumstances:
- (1) The dog is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted.
 - (2) The dog is not assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog is an assistance dog.
- (d) No person shall recklessly do any of the following:
- (1) Taunt, torment, or strike an assistance dog;
 - (2) Throw an object or substance at an assistance dog;
 - (3) Interfere with or obstruct an assistance dog, or interfere with or obstruct a blind, deaf or hearing impaired, or mobility impaired person who is being assisted or served by an assistance dog, in a manner that does any of the following:
 - A. Inhibits or restricts the assisted or served person's control of the dog;

CHAPTER 529 Liquor Control

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|----------------|--|---------------|--|
| 529.01 | Definitions. | 529.05 | Permit required. |
| 529.02 | Sales to and use by underage persons; securing public accommodations. | 529.06 | Low-alcohol beverages: sale to and purchase by underage persons prohibited. |
| 529.021 | Purchase by minor; misrepresentation. | 529.07 | Open container prohibited. |
| 529.03 | Sales to intoxicated persons. | 529.08 | Hours of sale or consumption. |
| 529.04 | Liquor consumption in motor vehicle. | 529.99 | Penalty. |

CROSS REFERENCES

See sectional histories for similar State law
 Prohibiting sale of intoxicating liquor on Sunday - see
 Ohio R.C. 4301.22(D)
 Local option - see Ohio R.C. 4301.32 et seq., 4303.29
 Disorderly conduct; intoxication - see GEN. OFF. 509.03
 Using weapons while intoxicated - see GEN. OFF. 549.03

529.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) "Alcohol". Ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. The term does not include denatured alcohol and wood alcohol.
- (b) "At Retail". For use or consumption by the purchaser and not for resale.
- (c) "Beer".
 - (1) Includes all beverages brewed or fermented wholly or in part from malt products and containing one-half of one percent (0.5%) or more of alcohol by volume.
 - (2) Beer, regardless of the percent of alcohol by volume, is not intoxicating liquor for purposes of this code, the Ohio Revised Code, or any rules adopted under it.
- (d) "Cider". All liquids that are fit to use for beverage purposes that contain one-half of one percent (0.5%) of alcohol by volume, but not more than six percent (6%) of alcohol by weight that are made through the normal alcoholic fermentation of the juice of sound, ripe apples, including, without limitation, flavored, sparkling, or carbonated cider and cider made from pure condensed apple must.

- (e) "Hotel". The same meaning as in Ohio R.C. 3731.01, subject to the exceptions mentioned in Ohio R.C. 3731.03.
- (f) "Intoxicating Liquor" and "Liquor". All liquids and compounds, other than beer, containing one half of one percent (0.5%) or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether they are medicated, proprietary, or patented. The terms include cider and alcohol, and all solids and confections which contain one-half of one percent (0.5%) or more of alcohol by volume.
- (g) "Low-Alcohol Beverage". Any brewed or fermented malt product or any product made from the fermented juices of grapes, fruits, or other agricultural products that contains either no alcohol or less than one-half of one percent (0.5%) of alcohol by volume. The beverages described in this definition do not include a soft drink such as root beer, birch beer, or ginger beer.
- (h) "Manufacture". All processes by which beer or intoxicating liquor is produced, whether by distillation, rectifying, fortifying, blending, fermentation, brewing, or in any other manner.
- (i) "Manufacturer". Any person engaged in the business of manufacturing beer or intoxicating liquor.
- (j) "Mixed Beverages". Include bottled and prepared cordials, cocktails, highballs, and solids and confections that are obtained by mixing any type of whiskey, neutral spirits, brandy, gin or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product shall contain not less than one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume. The phrase includes the contents of a pod.
- (k) "Person". Includes firms and corporations.
- (l) "POD". Means a sealed capsule made from plastic, glass, aluminum, or a combination thereof to which all of the following apply:
 - (1) The capsule contains intoxicating liquor of more than twenty-one percent (21%) of alcohol by volume.
 - (2) The capsule also contains a concentrated flavoring mixture.
 - (3) The contents of the capsule are not readily accessible or intended for consumption unless certain manufacturer's processing instructions are followed.
 - (4) The instructions include releasing the contents of the capsule through a machine specifically designed to process the contents.
 - (5) After being properly processed according to the manufacturer's instructions, the final product produced from the capsule contains not less than one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume.

- (m) "Restaurant". A place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. The term does not include pharmacies, confectionery stores, lunch stands, nightclubs, and filling stations.
- (n) "Sale" and "Sell". The exchange, barter, gift, offer for sale, sale, distribution, and delivery of any kind, and the transfer of title or possession of beer and intoxicating liquor either by constructive or actual delivery by any means or devices whatever, including the sale of beer or intoxicating liquor by means of a controlled access alcohol and beverage cabinet pursuant to Ohio R.C. 4301.21. Such terms do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the Division of Liquor Control authorizing the sale of the beer or intoxicating liquor, but no solicitor shall solicit any orders until the solicitor has been registered with the Division pursuant to Ohio R.C. 4303.25.
- (o) "Sealed Container". Any container having a capacity of not more than 128 fluid ounces, the opening of which is closed to prevent the entrance of air.
- (p) "Spirituous Liquor". All intoxicating liquors containing more than twenty-one percent (21 %) of alcohol by volume. The phrase does not include the contents of a pod.
- (q) "Vehicle". All means of transportation by land, by water, or by air, and everything made use of in any way for such transportation.
- (r) "Wine". All liquids fit to use for beverage purposes containing not less than one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21 %) of alcohol by volume, which is made from the fermented juices of grapes, fruits, or other agricultural products. Except as provided in Ohio R.C. 4301.01(B)(3), the term does not include cider.
(ORC 4301.01, 4301.244)

529.02 SALES TO AND USE BY UNDERAGE PERSONS; SECURING PUBLIC ACCOMMODATIONS.

(a) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person shall sell beer or intoxicating liquor to an underage person, or shall buy beer or intoxicating liquor for an underage person, or shall furnish it to, an underage person, unless given by a physician in the regular line of his practice or given for established religious purposes, or unless the underage person is supervised by a parent, spouse who is not an underage person or legal guardian.

In proceedings before the Liquor Control Commission, no permit holder, or no employee or agent of a permit holder, charged with a violation of this subsection shall be charged, for the same offense, with a violation of Ohio R.C. 4301.22(A)(1).

(b) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person or legal guardian and the parent, spouse who is not an underage person or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor.

An owner of a public or private place is not liable for acts or omissions in violation of this subsection that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(c) No person shall engage or use accommodations at a hotel, inn, cabin, campground or restaurant when he knows or has reason to know either of the following:

- (1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person;
- (2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a practitioner and has the drug of abuse in the original container in which it was dispensed to the person.

(g) This section does not apply to a person that has in the person's possession an opened container of beer or intoxicating liquor on the premises of a market if the beer or intoxicating liquor has been purchased from a D liquor permit holder that is located in the market.

As used in subsection (g) of this section, "market" means an establishment that:

- (1) Leases space in the market to individual vendors, not less than fifty percent of which are retail food establishments or food service operations licensed under Ohio R.C. Chapter 3717;
 - (2) Has an indoor sales floor area of not less than twenty-two thousand square feet;
 - (3) Hosts a farmer's market on each Saturday from April through December. (ORC 4301.62)
- (h) (1) As used in this section, "alcoholic beverage" has the same meaning as in Ohio R.C. 4303.185.
- (2) An alcoholic beverage in a closed container being transported under Ohio R.C. 4303.185 to its final destination is not an opened container for the purposes of this section if the closed container is securely sealed in such a manner that it is visibly apparent if the closed container has been subsequently opened or tampered with after sealing. (ORC 4301.62)

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

529.08 HOURS OF SALE OR CONSUMPTION.

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

(b) No beer, wine, mixed beverages, or spirituous liquor shall be sold or delivered by an A-1, A-1c, A-2, B-1, B-2, B-4, B-5, C-1, C-2, C-2X, D-1, D-2, D-2X, D-3 when issued without a D-3A, D-3X, D-4, D-5H, D-5K, D-8, F, F-1, F-2, F-3, F-4, F-5, F-6, F-7, F-8, F-9, G or I permit holder:

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

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

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

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

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

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

529.99 PENALTY.

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

CHAPTER 533 Obscenity and Sex Offenses

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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.
- (d) (1) If either of the following applies, the court may determine at the time of sentencing whether to classify the offender as a tier I sex offender/child-victim offender for a violation of subsection (b)(4) of this section:
- A. The offender is less than ten years older than the other person.
 - B. The offender is ten or more years older than the other person and the offender has not previously been convicted of or pleaded guilty to any violation of this section.
- (2) If the offender is convicted of or pleads guilty to a violation of subsection (b)(4) of this section, is ten or more years older than the other person, and previously has been convicted of or pleaded guilty to any violation of this section, the court shall issue an order at the time of sentencing that classifies the offender as a tier I sex offender/child-victim offender subject to registration under Ohio R.C. 2950.04, 2950.041, 2950.05 and 2950.06. (ORC 2907.09)

533.08 PROCURING; ENGAGEMENT IN SEXUAL ACTIVITY FOR HIRE.

- (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 subsection (a) or (b) of 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 eighteen 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 eighteen 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.

(d) No person shall recklessly induce, entice, or procure another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person.

(e) As used in subsection (d) of 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.

(f) Whoever violates subsection (d) of this section is guilty of engaging in prostitution, a misdemeanor of the first degree. In sentencing the offender under this subsection, the court shall require the offender to attend an education or treatment program aimed at preventing persons from inducing, enticing, or procuring another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person and, notwithstanding the fine specified in Ohio R.C. 2929.28(A)(2)(a) for a misdemeanor of the first degree, the court may impose upon the offender a fine of not more than one thousand five hundred dollars (\$1,500). (ORC 2907.231)

533.09 SOLICITING.

(a) No person shall knowingly solicit another to engage in sexual activity for hire in exchange for the person receiving anything of value from the other person.

(b) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in conduct in violation of subsection (a) of this section.

(c) As used in subsection (a) of 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.

- (d) (1) Whoever violates subsection (a) of this section is guilty of soliciting. Soliciting is a misdemeanor of the third degree.
- (2) Whoever violates subsection (b) of this section is guilty of engaging in solicitation after a positive HIV test, a felony to be prosecuted under appropriate state law. (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) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in conduct in violation of subsection (a) of this section.

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

(1) "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 (c)(1)A. of this definition.
- C. A place not described in subsection (c)(1)A. or B. of this definition that is open to the public.

(2) "Vehicle". Has the same meaning as in Ohio R.C. 4501.01.

(d) (1) Whoever violates subsection (a) of this section is guilty of loitering to engage in solicitation, a misdemeanor of the third degree.

(2) Whoever violates subsection (b) of this section is guilty of loitering to engage in solicitation after a positive HIV test, a felony to be prosecuted under appropriate state law.

(ORC 2907.24, 2907.241)

533.10 PROSTITUTION.

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

(b) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in sexual activity for hire.

(c) (1) Whoever violates subsection (a) of this section is guilty of prostitution, a misdemeanor of the third degree.

(2) Whoever violates subsection (b) of this section is guilty of engaging in prostitution after a positive HIV test, a felony to be prosecuted under appropriate state law.

(ORC 2907.25)

533.11 DISSEMINATING MATTER HARMFUL TO JUVENILES.

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

(1) Directly sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;

(2) Directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;

(3) While in the physical proximity of the juvenile or law enforcement officer posing as a juvenile, allow any juvenile or law enforcement officer posing as a juvenile to review or peruse any material or view any live performance that is harmful to juveniles.

(b) The following are affirmative defenses to a charge under this section, that involves material or a performance that is harmful to juveniles but not obscene:

- (1) The defendant is the parent, guardian or spouse of the juvenile involved.
- (2) The juvenile involved, at the time of the conduct in question, was accompanied by the juvenile's parent or guardian who, with knowledge of its character, consented to the material or performance being furnished or presented to the juvenile.
- (3) The juvenile exhibited to the defendant or the defendant's agent or employee a draft card, driver's license, birth certificate, marriage license, or other official or apparently official document purporting to show that the juvenile was eighteen years of age or over or married, and the person to whom that document was exhibited did not otherwise have reasonable cause to believe that the juvenile was under the age of eighteen and unmarried.

- (c) (1) It is an affirmative defense to a charge under this section, involving material or a performance that is obscene or harmful to juveniles, that the material or performance was furnished or presented for a bona fide medical, scientific, educational, governmental, judicial or other proper purpose, by a physician, psychologist, sociologist, scientist, teacher, librarian, clergyman, prosecutor, judge or other proper person.
- (2) Except as provided in subsection (b)(3) hereof, mistake of age is not a defense to a charge under this section.

- (d) (1) A person directly sells, delivers, furnishes, disseminates, provides, exhibits, rents, or presents or directly offers or agrees to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present material or a performance to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section by means of an electronic method of remotely transmitting information if the person knows or has reason to believe that the person receiving the information is a juvenile or the group of persons receiving the information are juveniles.
- (2) A person remotely transmitting information by means of a method of mass distribution does not directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present or directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present the material or performance in question to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section if either of the following applies:
- A. The person has inadequate information to know or have reason to believe that a particular recipient of the information or offer is a juvenile.
 - B. The method of mass distribution does not provide the person the ability to prevent a particular recipient from receiving the information.

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

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

533.12 DECEPTION TO OBTAIN MATTER HARMFUL TO JUVENILES.

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

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

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

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

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

533.13 DISPLAYING MATTER HARMFUL TO JUVENILES.

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

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

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

533.14 PROHIBITING REGISTERED SEX OFFENDER FROM ESTABLISHING RESIDENCE OR OCCUPYING RESIDENTIAL PREMISES NEAR SCHOOL PREMISES, LICENSED DAYCARE FACILITY, CITY-OWNED LIBRARY, PARK, PLAYGROUND OR SWIMMING POOL.

(a) No person who has been convicted of, is convicted of, has plead guilty to, or pleads guilty to, under the Ohio Revised Code, either a sexually oriented offense requiring registration or a child victim oriented offense shall establish a residence or occupying residential premises within 1,000 feet of any school premises, licensed daycare facility, or City-owned library, park, playground or swimming pool.

(b) If a person violates subsection (a) hereof by establishing a residence or occupying residential premises within 1,000 feet of any school premises, licensed daycare facility, City-owned library, park, playground or swimming pool, an owner or lessee of real property that is located within 1,000 feet of those school premises, licensed daycare facility, City-owned library, park, playground or swimming pool, or the City Director of Law that has jurisdiction over the place at which the person establishes the residence or occupies the residential premises in question, has a cause of action for injunctive relief against the person. The plaintiff shall not be required to prove irreparable harm in order to obtain relief.
(Ord. 2006-3735. Passed 12-4-06.)

533.15 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)

533.16 DISSEMINATION OF PRIVATE SEXUAL IMAGES.

(a) As used in this section:

- (1) "Disseminate" means to post, distribute, or publish on a computer device, computer network, web site, or other electronic device or medium of communication.
- (2) "Image" means a photograph, film, videotape, digital recording or other depiction or portrayal of a person.
- (3) "Interactive computer service" has the meaning defined in the "Telecommunications Act of 1996", 47 U.S.C. 230, as amended.
- (4) "Internet provider" means a provider of internet service, including all of the following:
 - A. Broadband service, however defined or classified by the federal communications commission;
 - B. Information service or telecommunication service, both as defined in the "Telecommunications Act of 1996" 47 U.S.C. 153, as amended.
 - C. Internet protocol-enabled services, as defined in Ohio R.C. 4927.01.
- (5) "Mobile service" and "telecommunications carrier" have the meanings defined in 47 U.S.C. 153, as amended.
- (6) "Cable service provider" has the same meaning as in Ohio R.C. 1332.01.
- (7) "Direct-to-home satellite service" has the meaning defined in 47 U.S.C. 303, as amended.
- (8) "Video service provider" has the same meaning as in Ohio R.C. 1332.21.
- (9) "Sexual act" means any of the following:
 - A. Sexual activity;
 - B. Masturbation;
 - C. An act involving a bodily substance that is performed for the purpose of sexual arousal or gratification;

D. Sado-masochistic abuse.

(b) No person shall knowingly disseminate an image of another person if all of the following apply:

- (1) The person in the image is eighteen years of age or older;
- (2) The person in the image can be identified from the image itself or from information displayed in connection with the image and the offender supplied the identifying information.
- (3) The person in the image is in a state of nudity or is engaged in a sexual act;
- (4) The image is disseminated without consent from the person in the image;
- (5) The image is disseminated with intent to harm the person in the image.

(c) This section does not prohibit the dissemination of an image if any of the following apply:

- (1) The image is disseminated for the purpose of a criminal investigation that is otherwise lawful.
- (2) The image is disseminated for the purpose of, or in connection with, the reporting of unlawful conduct.
- (3) The image is part of a news report or commentary or an artistic or expressive work, such as a performance, work of art, literary work, theatrical work, musical work, motion picture, film, or audiovisual work.
- (4) The image is disseminated by a law enforcement officer, or a corrections officer or guard in a detention facility, acting within the scope of the person's official duties.
- (5) The image is disseminated for another lawful public purpose;
- (6) The person in the image is knowingly and willingly in a state of nudity or engaged in a sexual act and is knowingly and willingly in a location in which the person does not have a reasonable expectation of privacy.
- (7) The image is disseminated for the purpose of medical treatment or examination.

(d) The following entities are not liable for a violation of this section solely as a result of an image or other information provided by another person:

- (1) A provider of interactive computer service;
- (2) A mobile service;
- (3) A telecommunications carrier;
- (4) An internet provider;
- (5) A cable service provider;
- (6) A direct-to-home satellite service;
- (7) A video service provider.

(e) Any conduct that is a violation of this section and any other section of the General Offenses Code, or the Revised Code may be prosecuted under this section, the other section, or both sections.

- (f) (1) A. Except as otherwise provided in subsection (f)(1)B., C., or D. of this section, whoever violates this section is guilty of nonconsensual dissemination of private sexual images, a misdemeanor of the third degree.
- B. If the offender previously has been convicted of or pleaded guilty to a violation of this section, nonconsensual dissemination of private sexual images is a misdemeanor of the second degree.

- C. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, nonconsensual dissemination of private sexual images is a misdemeanor of the first degree.
 - D. If the offender is under eighteen years of age and the person in the image is not more than five years older than the offender, the offender shall not be prosecuted under this section.
- (2) In addition to any other penalty or disposition authorized or required by law, the court may order any person who is convicted of a violation of this section or who is adjudicated delinquent by reason of a violation of this section to criminally forfeit all of the following property to the state under Ohio R.C. Chapter 2981.
- A. Any profits or proceeds and any property the person has acquired or maintained in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation;
 - B. Any interest in, securities of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise that the person has established, operated, controlled or conducted in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation.

(g) A victim of a violation of this section may commence a civil cause of action against the offender, as described in Ohio R.C. 2307.66.
(ORC 2917.211)

533.99 PENALTY.

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

CHAPTER 537
Offenses Against Persons

| | | | |
|----------------|--|---------------|---|
| 537.01 | Negligent homicide. | 537.12 | Misuse of 9-1-1 system. |
| 537.02 | Vehicular homicide and manslaughter. | 537.13 | Adulterating of or furnishing adulterated food or confection. |
| 537.021 | Vehicular assault in a construction zone. | 537.14 | Domestic violence. |
| 537.03 | Assault. | 537.15 | Temporary protection order. |
| 537.04 | Negligent assault. | 537.16 | Illegal distribution of cigarettes, other tobacco products, or alternate nicotine products; transaction scans. |
| 537.05 | Aggravated menacing. | 537.17 | Reserved. |
| 537.051 | Menacing by stalking. | 537.18 | Contributing to unruliness or delinquency of a child. |
| 537.06 | Menacing. | 537.99 | Penalty. |
| 537.07 | Endangering children. | | |
| 537.08 | Unlawful restraint. | | |
| 537.09 | Coercion. | | |
| 537.10 | Telecommunication harassment. | | |
| 537.11 | Threatening or harassing telephone calls. | | |

CROSS REFERENCES

See sectional histories for similar State law

Physical harm to persons defined - see GEN. OFF.

501.01 (c), (e)

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

537.01 NEGLIGENT HOMICIDE.

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

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

537.02 VEHICULAR HOMICIDE AND MANSLAUGHTER.

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

(1) A. Negligently;

- B. As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this subsection applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) of this section.
- (2) As the proximate result of committing a violation of any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor.
- (b) (1) Whoever violates subsection (a)(1) of this section is guilty of vehicular homicide. Except as otherwise provided in this subsection, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide is a felony and shall be prosecuted under appropriate State law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter or assault offense. The court shall impose a mandatory jail term on the offender when required by Ohio R.C. 2903.06(E).
- (2) Whoever violates subsection (a)(2) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this subsection, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.
- (c) The court shall impose a mandatory jail term of at least fifteen days on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)B. of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 501.99. The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)A. hereof if either of the following applies:
- (1) The offender previously has been convicted of or pleaded guilty to a violation of this section or Ohio R.C. 2903.06 or 2903.08.

- (2) At the time of the offense, the offender was driving under suspension or cancellation under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10.

(d) Subsection (a)(1)B. does not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under Ohio R.C. 5501.27. The failure to erect signs of the type described in Ohio R.C. 2903.081 in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of subsections (a)(1)A. or (a)(2) of this section in that construction zone or the prosecution of any person who violates any of those subsections in that construction zone.

(e) As used in this section:

- (1) "Mandatory prison term" and "mandatory jail term" have the same meanings as in Ohio R.C. 2929.01.
- (2) "Traffic-related homicide, manslaughter or assault offense" means a violation of Ohio R.C. 2903.04 in circumstances in which division (D) of that section applies, a violation of Ohio R.C. 2903.06 or 2903.08, or a violation of Ohio R.C. 2903.06, 2903.07 or 2903.08 as they existed prior to March 23, 2000.
- (3) "Construction zone" has the same meaning as in Ohio R.C. 5501.27.
- (4) "Speeding offense" means a violation of Ohio R.C. 4511.21 or a municipal ordinance pertaining to speed.

(f) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this State, or current or former law of another state or the United States. (ORC 2903.06)

(g) The court imposing a sentence upon an offender for any violation of this section also shall impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (B) of Ohio R.C. 4510.02 that is equivalent in length to the suspension required for a violation of Ohio R.C. 2903.06 or division (A) or (B) of Ohio R.C. 4511.19 under similar circumstances. (ORC 4510.07)

537.021 VEHICULAR ASSAULT IN A CONSTRUCTION ZONE.

(a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause serious physical harm to another person or another's unborn as the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense. This subsection applies only if the person to whom the serious physical harm is caused or to whose unborn the serious physical harm is caused is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) hereof.

(b) Whoever violates this section is guilty of vehicular assault. Except as provided in this subsection, vehicular assault is a misdemeanor of the first degree. Vehicular assault is a felony if, at the time of the offense, the offender was driving under a suspension imposed under Ohio R.C. Chapter 4510, or any other provision of the Ohio Revised Code or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, and shall be prosecuted under appropriate state law.

In addition to any other sanctions imposed, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02.

(c) The court shall impose a mandatory jail term of at least seven days on an offender who is convicted of or pleads guilty to a violation of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 501.99.

(d) This section does not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under Ohio R.C. 5501.27.

(e) As used in this section:

- (1) "Mandatory jail term" has the same meaning as in Ohio R.C. 2929.01.
- (2) "Traffic-related homicide, manslaughter or assault offense" has the same meaning as in Ohio R.C. 2903.06.
- (3) "Construction zone" has the same meaning as in Ohio R.C. 5501.27.
- (4) "Speeding offense" has the same meaning as in Ohio R.C. 2903.06.

(f) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this State, or current or former law of another state or the United States. (ORC 2903.08)

537.03 ASSAULT.

(a) No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn.

(b) No person shall recklessly cause serious physical harm to another or to another's unborn.

- (c) (1) Whoever violates this section is guilty of assault, a misdemeanor of the first degree, and the court shall sentence the offender as provided in subsection (c) hereof. If the assault was committed under the circumstances provided in subsection (c)(2), (3), (4), (5), (6), (7), (8) or (9) hereof, assault is a felony and shall be prosecuted under appropriate State law.
- (2) Except as otherwise provided in this subsection, if the offense is committed by a caretaker against a functionally impaired person under the caretaker's care.

- (4) No person engaged in the business of selling cigarettes who ships or causes to be shipped cigarettes to any person in this municipality in any container or wrapping other than the original container or wrapping of the cigarettes shall fail to plainly and visibly mark the exterior of the container or wrapping in which the cigarettes are shipped with the words "cigarettes."
 - (5) A court shall impose a fine of up to one thousand dollars (\$1,000) for each violation of subsection (d)(3)A., (d)(3)B. or (d)(4) of this section.
(ORC 2927.023)
- (e) Furnishing False Information to Obtain Tobacco Products.
- (1) No person who is eighteen years of age or older but younger than twenty-one years of age shall knowingly furnish false information concerning that person's name, age, or other identification for the purpose of obtaining tobacco products.
 - (2) Whoever violates subsection (e)(1) of this section is guilty of furnishing false information to obtain tobacco products. Except as otherwise provided in this division, furnishing false information to obtain tobacco products is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (e)(1) of this section or a substantially equivalent state law or municipal ordinance, furnishing false information to obtain tobacco products is a misdemeanor of the third degree.
(ORC 2927.024)

537.17 RESERVED.

(Editor's note: This section was formerly 537.17 Criminal Child Enticement, based on Ohio R.C. 2905.05, Criminal Child Enticement. The Ohio Supreme Court held that Ohio R.C. 2905.05(A) was unconstitutionally overbroad in violation of the First Amendment. See *State v. Romage*, 138 Ohio St. 3d. 390 (2014).)

537.18 CONTRIBUTING TO UNRULINESS OR DELINQUENCY OF A CHILD.

- (a) As used in this section:
- (1) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.
 - (2) "Unruly child" has the same meaning as in Ohio R.C. 2151.022.
- (b) No person, including a parent, guardian or other custodian of a child, shall do any of the following:
- (1) Aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming an unruly child or a delinquent child;
 - (2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child or a delinquent child;
 - (3) Act in a way that contributes to an adjudication of the child as a delinquent child based on the child's violation of a court order adjudicating the child an unruly child for being an habitual truant;
 - (4) If the person is the parent, guardian, or custodian of a child who has the duties under Ohio R.C. Chapters 2152 and 2950 to register, register a new residence address, and periodically verify a residence address and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in Ohio R.C. 2919.121, fail to ensure that the child complies with those duties under Ohio R.C. Chapters 2152 and 2950.
- (c) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of violation of this section is a separate offense. (ORC 2919.24)

537.19 CURFEW FOR MINORS.

- (a) It shall be unlawful for any person under the age of thirteen years to be in or upon any road, street, park, public land, public place or private business open to the public, in the incorporated limits of Pataskala, between the hours of sunset and 5:00 a.m. unless accompanied by a parent, guardian or other adult having the care and custody of the minor.
- (b) It shall be unlawful for any person, age thirteen, fourteen or fifteen years, to be in or upon any road, street, park, public land, public place or private business open to the public in the incorporated limits of Pataskala, between the hours of 10:00 p.m. until 5:00 a.m. unless accompanied by a parent, guardian or other adult having the care and custody of the minor.

- (2) With purpose to interfere with the use or enjoyment of property of another employ a tear gas device, stink bomb, smoke generator or other device releasing a substance that is harmful or offensive to persons exposed, or that tends to cause public alarm;
 - (3) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a bench mark, triangulation station, boundary marker or other survey station, monument or marker.
 - (4) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;
 - (5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure or personal property that is on that land.
 - (6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, all as defined in Ohio R.C. 2909.01, knowingly do any of the following:
 - A. In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;
 - B. Introduce a computer contaminant into a computer, computer system, computer network, computer software or computer program.
 - (7) Without privilege to do so, knowingly destroy or improperly tamper with a critical infrastructure facility.
- (b) As used in this section:
- (1) "Critical Infrastructure Facility". Has the same meaning as in Ohio R.C. 2911.21.
 - (2) "Improperly Tamper". Means to change the physical location or the physical condition of the property.
 - (3) "Safety Device". Means any fire extinguisher, fire hose, or fire axe, or any fire escape, emergency exit, or emergency escape equipment, or any life line, life-saving ring, life preserver, or life boat or raft, or any alarm, light, flare, signal, sign, or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal, or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.

- (c)
 - (1) Whoever violates this section is guilty of criminal mischief, and shall be punished as provided in subsection (c)(2), (c)(3), or (c)(4) of this section.
 - (2) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this division, if the violation of subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section is a misdemeanor of the first degree. If the property involved in the violation of subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section is a felony to be prosecuted under appropriate state law.
 - (3) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (a)(6) of this section is a misdemeanor of the first degree. If the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of subsection (a)(6) of this section or the loss to the victim resulting from the violation is one thousand dollars (\$1,000) or more, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of subsection (a)(6) is used or intended to be used in the operation of an aircraft and the violation creates any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of subsection (a)(6) of this section is a felony to be prosecuted under appropriate state law.
 - (4) Criminal mischief committed in violation of subsection (a)(7) of this section is a felony to be prosecuted under appropriate state law.
(ORC 2909.07)

541.05 CRIMINAL TRESPASS.

- (a) No person, without privilege to do so, shall do any of the following:
 - (1) Knowingly enter or remain on the land or premises of another;
 - (2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;

- (3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;
- (4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.
- (5) Knowingly enter or remain on a critical infrastructure facility.

(b) It is no defense to a charge under this section that the land or premises involved was owned, controlled or in custody of a public agency.

(c) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved when such authorization was secured by deception.

- (d)
 - (1) Whoever violates this section is guilty of criminal trespass. Criminal trespass in violation of subsection (a)(1), (a)(2), (a)(3), or (a)(4) of this section is a misdemeanor of the fourth degree. Criminal trespass in violation of subsection (a)(5) of this section is a misdemeanor of the first degree.
 - (2) Notwithstanding Section 501.99, if the person, in committing the violation of this section, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court shall impose a fine of two times the usual amount imposed for the violation.
 - (3) If an offender previously has been convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent municipal ordinance, or state law, and the offender, in committing each violation, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than sixty days. In such a case, Ohio R.C. 4519.47 applies.

(e) As used in subsections (a) through (e) of this section:

- (1) "All-Purpose Vehicle, Off-Highway Motorcycle" and "Snowmobile". Have the same meanings as in Ohio R.C. 4519.01.
- (2) "Critical Infrastructure Facility". Means:
 - A. One of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with signs that are reasonably likely to come to the attention of potential intruders and that indicate entry is forbidden without site authorization:
 1. A petroleum or alumina refinery;
 2. An electric generating facility, substation, switching station, electrical control center, or electric transmission and distribution lines and associated equipment;

3. A chemical, polymer, or rubber manufacturing facility;
4. A water intake structure, water treatment facility, waste water facility, drainage facility, water management facility, or any similar water or sewage treatment system and its water and sewage piping;
5. A natural gas company facility or interstate natural gas pipeline, including a pipeline interconnection, a natural gas compressor station and associated facilities, city gate or town border station, metering station, above-ground piping, regulator station, valve site, delivery station, fabricated assembly, or any other part of a natural gas storage facility involved in the gathering, storage, transmission, or distribution of gas;
6. A telecommunications central switching office or remote switching facility or an equivalent network facility that serves a similar purpose;
7. Wireline or wireless telecommunications infrastructure, including telecommunications towers and telephone poles and lines, including fiber optic lines;
8. A port, trucking terminal, or other freight transportation facility;
9. A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;
10. A transmission facility used by a federally licensed radio or television station;
11. A steel-making facility that uses an electric arc furnace to make steel;
12. A facility identified and regulated by the United States Department of Homeland Security's Chemical Facility Anti-Terrorism Standards Program under 6 C.F.R. part 27;
13. A dam that is regulated by the state or federal government;
14. A crude oil or refined products storage and distribution facility, including valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline, or piping and truck loading or off-loading facility;
15. A video service network and broadband infrastructure, including associated buildings and facilities, video service headends, towers, utility poles, and utility lines such as fiber optic lines. As used in this division, "video service network" has the same meaning as in Ohio R.C. 1332.21.
16. Any above-ground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, or other storage facility;
17. Any above-ground portion of a well, well pad, or production operation;
18. A laydown area or construction site for pipe and other equipment intended for use on an interstate or intrastate natural gas or crude oil pipeline;
19. Any mining operation, including any processing equipment, batching operation, or support facility for that mining operation.

- B. With respect to a video service network or broadband or wireless telecommunications infrastructure, the above-ground portion of a facility installed in a public right-of-way on a utility pole or in a conduit;
 - C. Any railroad property;
 - D. An electronic asset of any of the following:
 - 1. An electric light company that is a public utility under Ohio R.C. 4905.02;
 - 2. An electric cooperative, as defined in Ohio R.C. 4928.01;
 - 3. A municipal electric utility, as defined in Ohio R.C. 4928.01;
 - 4. A natural gas company that is a public utility under Ohio R.C. 4905.02;
 - 5. A telephone company that is a public utility under Ohio R.C. 4905.02;
 - 6. A video service provider, including a cable operator, as those terms are defined in Ohio R.C. 1332.21.
- (3) "Electronic Asset". Includes, but is not limited to, the hardware, software, and data of a programmable electronic device; all communications, operations, and customer data networks; and the contents of those data networks.
 - (4) "Land" or "Premises". Includes any land, building, structure, or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof.
 - (5) "Production Operation, Well, and Well Pad". Have the same meanings as in Ohio R.C. 1509.01.
(ORC 2911.21)

541.051 AGGRAVATED TRESPASS.

- (a) (1) No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to that person.
- (2) No person shall enter or remain on a critical infrastructure facility with purpose to destroy or tamper with the facility.

(b) Whoever violates this section is guilty of aggravated trespass. Aggravated trespass in violation of subsection (a)(1) of this section is a misdemeanor of the first degree. Aggravated trespass in violation of subsection (a)(2) of this section is a felony to be prosecuted under appropriate state law.

(c) As used in this section, "Critical infrastructure facility" has the same meaning as in Ohio R.C. 2911.21. (ORC 2911.211)

541.06 DESTRUCTION OF SHRUBS, TREES OR CROPS.

(a) No person, without privilege to do so, shall recklessly cut down, destroy, girdle or otherwise injure a vine, bush, shrub, sapling, tree or crop standing or growing on the land of another or upon public land.

(b) In addition to any penalty provided, whoever violates this section is liable in treble damages for the injury caused. (ORC 901.51)

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (ORC 901.99(A))

541.07 DESECRATION.

(a) No person, without privilege to do so, shall purposely deface, damage, pollute or otherwise physically mistreat any of the following:

- (1) The flag of the United States or of this State;
- (2) Any public monument;
- (3) Any historical or commemorative marker, or any structure, Indian mound or earthwork, cemetery, thing or site of great historical or archeological interest;
- (4) A work of art or museum piece;
- (5) Any other object of reverence or sacred devotion.

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

(c) As used in this section, "cemetery" means any place of burial and includes burial sites that contain American Indian burial objects placed with or containing American Indian human remains. (ORC 2927.11)

541.08 ETHNIC INTIMIDATION.

(a) No person shall violate Ohio R.C. 2903.21, 2903.22, 2909.06, 2909.07 or 2917.21(A)(3) to (5) or Sections 537.05, 537.06, 537.10(a)(3) to (5), 541.03 or 541.04 of the General Offenses Code by reason of the race, color, religion or national origin of another person or group of persons.

(b) Whoever violates this section is guilty of ethnic intimidation. Ethnic intimidation is an offense of the next higher degree than the offense the commission of which is a necessary element of ethnic intimidation. (ORC 2927.12)

541.09 VEHICULAR VANDALISM.

(a) As used in this section:

- (1) "Highway" means any highway as defined in Section 301.42 of the Traffic Code or any lane, road, street, alley, bridge, or overpass.
- (2) "Alley", "street", and "vehicle" have the same meanings as in Chapter 301 of the Traffic Code.
- (3) "Vessel" and "waters in this State" have the same meanings as in Ohio R.C. 1546.01.

(b) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of any of the following:

- (1) Any vehicle on a highway;
- (2) Any boat or vessel on any of the waters in this State that are located in the Municipality.

(c) Whoever violates this section is guilty of vehicular vandalism. Except as otherwise provided in this subsection, vehicular vandalism is a misdemeanor of the first degree. If the violation of this section creates a substantial risk of physical harm to any person, serious physical harm to property, physical harm to any person or serious physical harm to any person, vehicular vandalism is a felony and shall be prosecuted under appropriate State law. (ORC 2909.09)

541.10 TRESPASS ON A PLACE OF PUBLIC AMUSEMENT.

(a) As used in this section, "place of public amusement" means a stadium, theater or other facility, whether licensed or not, at which a live performance, sporting event, or other activity takes place for entertainment of the public and to which access is made available to the public, regardless of whether admission is charged.

(b) No person, without privilege to do so, shall knowingly enter or remain on any restricted portion of a place of public amusement and, as a result of that conduct, interrupt or cause the delay of the live performance, sporting event, or other activity taking place at the place of public amusement after a printed written notice has been given as provided in subsection (d)(1) of this section that the general public is restricted from access to that restricted portion of the place of public amusement. A restricted portion of a place of public amusement may include, but is not limited to, a playing field, an athletic surface, or a stage located at the place of public amusement.

(c) An owner or lessee of a place of public amusement, an agent of the owner or lessee, or a performer or participant at a place of public amusement may use reasonable force to restrain and remove a person from a restricted portion of the place of public amusement if the person enters or remains on the restricted portion of the place of public amusement and, as a result of that conduct, interrupts or causes the delay of the live performance, sporting event, or other activity taking place at the place of public amusement. This subsection does not provide immunity from criminal liability for any use of force beyond reasonable force by an owner or lessee of a place of public amusement, an agent of either the owner or lessee, or a performer or participant at a place of public amusement.

- (d) (1) Notice has been given that the general public is restricted from access to a portion of a place of public amusement if a printed written notice of the restricted access has been conspicuously posted or exhibited at the entrance to that portion of the place of public amusement. If a printed written notice is posted or exhibited as described in this subsection, regarding a portion of a place of public amusement, in addition to that posting or exhibition, notice that the general public is restricted from access to that portion of the place of public amusement also may be given, but is not required to be given, by either of the following means:
- A. By notifying the person personally, either orally or in writing, that access to that portion of the place of public amusement is restricted;
 - B. By broadcasting over the public address system of the place of public amusement an oral warning that access to that portion of the public place of amusement is restricted.
- (2) If notice that the general public is restricted from access to a portion of a place of public amusement is provided by the posting or exhibition of a printed written notice as described in subsection (d)(1) of this section, the Municipality, in a criminal prosecution for a violation of subsection (b) of this section, is not required to prove that the defendant received actual notice that the general public is restricted from access to a portion of a place of public amusement.
- (e) (1) Whoever violates subsection (b) of this section is guilty of criminal trespass on a place of public amusement, a misdemeanor of the first degree.
- (2) In addition to any jail term, fine or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (e)(1) of this section, a court may require an offender who violates this section to perform not less than thirty and not more than one hundred twenty hours of supervised community service work. (ORC 2911.23)

541.11 SCAVENGING.

(a) No person shall scavenge, remove, overturn or tamper with any household waste, that is been placed in a container designed to hold such waste whether designated as a "traditional" trash receptacle or a company supplied "residential dumpster" when such house-hold waste or container is set out on a public street or highway, sidewalk, alley, or on private premises when placed for the purpose of collection

(b) No person shall, between dusk and dawn, scavenge, remove, or tamper with any household waste, recyclables white goods, or yard waste set out on a public street or highway, sidewalk, alley, or on private premises, and when such materials, yard waste or recyclables are placed for the purpose of collection.

(c) This section shall not apply to any federal, state or local law enforcement authorities who are involved in any investigative activities or to the City and its employees or agents acting pursuant to lawful authority within the scope of such authority or to the owner or any person authorized by the owner of such waste.

(d) Whoever violates any provisions of this section or any rules or regulations adopted pursuant to this section shall be deemed guilty of a minor misdemeanor. A subsequent offense within a one year period shall be a misdemeanor of fourth degree.
(Ord. 2011-4026. Passed 6-6-11.)

541.99 PENALTY.

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

- (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 motor vehicle identification license plate as prescribed by Ohio R.C. 4503.22, a temporary motor vehicle license registration as prescribed by Ohio R.C. 4503.182, or any comparable temporary motor vehicle license registration as prescribed by the applicable law of another state or the United States;
 - (d) 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;
 - (e) 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)

- C. If subsections (f)(2)A. and B. and (f)(5) of this section do not apply, the offender shall be punished under subsection (f)(1) or (6) of this section.
- (3) Except as otherwise provided in this subsection, carrying concealed weapons in violation of subsection (b)(1) hereof is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for a violation of subsection (b)(1) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2). If, at the time of the stop of the offender for a law enforcement purpose that was the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a concealed handgun license, carrying concealed weapons in violation of division (b)(1) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Ohio R.C. 2923.128.
- (4) Except as otherwise provided herein, carrying concealed weapons in violation of subsection (b)(2) or (b)(3) hereof is a misdemeanor of the first degree. If the offender has previously been convicted or pleaded guilty to a violation of Ohio R.C. 2923.12(B)(2) or (B)(4) or a substantially equivalent municipal ordinance, carrying concealed weapons is a felony and shall be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a violation of subsection (b)(2) or (b)(3) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).
- (5) If a person being arrested for a violation of subsection (a)(2) of this section is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio R.C. 2923.126, the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125 and if the person is not in a place described in division (B) of Ohio R.C. 2923.126, the officer shall issue a citation and the offender shall be assessed a civil penalty of not more than five hundred dollars (\$500.00). The citation shall be automatically dismissed and the civil penalty shall not be assessed if both of the following apply:
- A. Within ten days after the issuance of the citation, the offender presents a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, which were both valid at the time of the issuance of the citation to the law enforcement agency that employs the citing officer.
- B. At the time of the citation, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

- (6) If a person being arrested for a violation of subsection (a)(2) of this section is knowingly in a place described in division (B)(5) of Ohio R.C. 2923.126, and is not authorized to carry a handgun or have a handgun concealed on the person's person or concealed ready at hand under that division, the penalty shall be as follows:
- A. Except as otherwise provided in this subsection, if the person produces a valid concealed handgun license within ten days after the arrest and has not previously been convicted or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a minor misdemeanor;
 - B. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the fourth degree;
 - C. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to two violations of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the third degree;
 - D. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to three or more violations of subsection (a)(2) of this section, or convicted of or pleaded guilty to any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is a dangerous ordnance, the person is guilty of a misdemeanor of the second degree.

(g) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of Ohio R.C. 2923.163 applies.

(h) For purposes of this section, "deadly weapon" or "weapon" does not include any knife, razor, or cutting instrument if the instrument was not used as a weapon.
(ORC 2923.12)

549.03 USING WEAPONS WHILE INTOXICATED.

(a) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any firearm or dangerous ordnance.

(b) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree. (ORC 2923.15)

549.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.

(a) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:

- (1) In a closed package, box or case;
- (2) In a compartment which can be reached only by leaving the vehicle;

- (3) In plain sight and secured in a rack or holder made for the purpose;
- (4) If the firearm is at least twenty-four inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least eighteen inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

(b) No person who has been issued a concealed handgun license, or who is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in Ohio R.C. 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:

- (1) Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a concealed handgun license or is authorized to carry a concealed handgun as an active duty member of the armed forces of the United States and that the person then possesses or has a loaded handgun in the motor vehicle;
- (2) Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a concealed handgun license or is authorized to carry a concealed handgun as an active duty member of the armed forces of the United States and that the person then possesses or has a loaded handgun in the commercial motor vehicle.
- (3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer.
- (4) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

- (c) (1) This section does not apply to any of the following:
 - A. An officer, agent or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's or employee's duties;
 - B. Any person who is employed in this State, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. does not apply to the person.
- (2) Subsection (a) of this section does not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:

- A. The person transporting or possessing the handgun is either carrying a valid concealed handgun license or is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125.
 - B. The person transporting or possessing the handgun is not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- (3) Subsection (a) of this section does not apply to a person if all of the following apply:
 - A. The person possesses a valid all-purpose vehicle permit issued under Ohio R.C. 1533.103 by the Chief of the Division of Wildlife.
 - B. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 on private or publicly owned lands or on or in a motor vehicle during the open hunting season for a wild quadruped or game bird.
 - C. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife.
- (d)
 - (1) The affirmative defenses authorized in Section 549.02(d)(1) and (2) are affirmative defenses to a charge under subsection (a) that involves a firearm other than a handgun.
 - (2) It is an affirmative defense to a charge under subsection (a) of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that the affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by subsection (a) while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.
- (e)
 - (1) No person who is charged with a violation of subsection (a) shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
 - (2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b) of this section as it existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (b) of this section on or after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction. If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (a) of this section as the subsection existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (a) of this section on or after September 30, 2011, due to the application of subsection (b)(4) of this section as it exists on and after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

549.06 UNLAWFUL TRANSACTIONS IN WEAPONS.

(a) No person shall do any of the following:

- (1) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing the transferee to be authorized to acquire dangerous ordnance pursuant to Ohio R.C. 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;
- (2) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.

(b) Whoever violates this section is guilty of unlawful transactions in weapons. A violation of subsection (a)(1) hereof is a misdemeanor of the second degree. A violation of subsection (a)(2) hereof is a misdemeanor of the fourth degree. (ORC 2923.20)

549.07 UNDERAGE PURCHASE OF FIREARM.

(a) No person under eighteen years of age shall purchase or attempt to purchase a firearm.

(b) No person under twenty-one years of age shall purchase or attempt to purchase a handgun, provided that this subsection does not apply to the purchase or attempted purchase of a handgun by a person eighteen years of age or older and under twenty-one years of age if either of the following apply:

- (1) The person is a law enforcement officer who is properly appointed or employed as a law enforcement officer and has received firearms training approved by the Ohio Peace Officer Training Council or equivalent firearms training.
- (2) The person is an active or reserve member of the armed services of the United States or the Ohio national guard, or was honorably discharged from military service in the active or reserve armed services of the United States or the Ohio national guard, and the person has received firearms training from the armed services or the national guard or equivalent firearms training.

(c) Whoever violates subsection (a) hereof is guilty of underage purchase of a firearm, a delinquent act that would be a felony of the fourth degree if it could be committed by an adult. Whoever violates subsection (b) hereof is guilty of underage purchase of a handgun, a misdemeanor of the second degree. (ORC 2923.211)

549.08 DISCHARGING FIREARMS.

(a) Except as provided in subsections (b), (c) and (d) hereof, no person shall discharge any air gun, rifle, shotgun, revolver, pistol or other firearm, or make use of any sling or arrow, within the corporate limits of the Municipality.

(b) This section shall only apply to those areas designated as "non-discharge" areas on the map identified in Section 505.11(c) and incorporated by reference herein. (Ord. 2000-3367. Passed 3-19-01.)

(c) This section does not extend to cases in which firearms, slings or arrows are used in self-defense, in the discharge of official duty, in justifiable homicide, or in those situations where an air gun, rifle, shotgun, revolver, pistol or other firearm, sling or arrow may be brought on School District property for educational purposes under controlled circumstances when authorized pursuant to an adopted policy or by resolution of the School Board having jurisdiction over school property located within the City of Pataskala.
(Ord. 2002-3458. Passed 10-21-02.)

(d) This section does not extend to cases in which BB guns and other air guns or slings or arrows, are used in the confines of dwellings, provided such use is under adult supervision.

(e) No person shall, intentionally and without malice, point or aim a firearm at or toward another or discharge a firearm so pointed or aimed.

(f) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the fourth degree. (Ord. 2000-3367. Passed 3-19-01.)

549.09 THROWING OR SHOOTING MISSILES.

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

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

549.10 POSSESSING REPLICA FIREARM IN SCHOOL.

(a) No person shall knowingly possess an object in a school safety zone if both of the following apply:

- (1) The object is indistinguishable from a firearm, whether or not the object is capable of being fired.
- (2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.

(b) Subsection (a) hereof does not apply to premises upon which home schooling is conducted. Subsection (a) hereof also does not apply to a school administrator, teacher, or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the direction of a school administrator, teacher, or employee, or any other person who with the express prior approval of a school administrator possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, reenactment, or other dramatic presentation, or a ROTC activity or another similar use of the object.

(c) Whoever violates subsection (a) hereof is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this subsection, illegal possession of an object indistinguishable from a firearm in a school safety zone is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of Ohio R.C. 2923.122, illegal possession of an object indistinguishable from a firearm in a school safety zone is a felony and shall be prosecuted under appropriate State law.

(b) All persons owning, operating, or in charge of the control of railroad engines, cars, trains, or other rolling stock, who shall permit or participate in any violation of this section either as proprietors, owners, lessees, superintendents, agents, servants, or employees, or otherwise shall be individually and collectively liable for any penalties imposed by this chapter.

(c) Whoever violates this section is guilty of a misdemeanor of the third degree.
(Ord. 775-70. Passed 7-7-75.)

553.05 RAILROAD VANDALISM.

(a) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of, any railroad rail, railroad track, locomotive, engine, railroad car, or other vehicle of a railroad company while such vehicle is on a railroad track.

(b) No person, without privilege to do so, shall climb upon or into any locomotive, engine, railroad car, or other vehicle of a railroad company when it is on a railroad track.

(c) No person, without privilege to do so, shall disrupt, delay, or prevent the operation of any train or other vehicle of a railroad company while such vehicle is on a railroad track.

(d) Whoever violates subsection (a) of this section is guilty of railroad vandalism. Whoever violates subsection (b) of this section is guilty of criminal trespass on a locomotive, engine, railroad car or other railroad vehicle. Whoever violates subsection (c) of this section is guilty of interference with the operation of a train.

Except as otherwise provided in this subsection, railroad vandalism; criminal trespass on a locomotive, engine, railroad car, or other railroad vehicle; and interference with the operation of a train each is a misdemeanor of the first degree. If the violation of subsection (a), (b) or (c) of this section causes serious physical harm to property, creates a substantial risk of physical harm to any person, causes physical harm to any person, or serious physical harm to any person, the violation is a felony and shall be prosecuted under appropriate State law.

(e) No person shall knowingly deface, damage, obstruct, remove, or otherwise impair the operation of any railroad grade crossing warning signal or other protective device, including any gate, bell, light, crossbuck, stop sign, yield sign, advance warning sign, or advance pavement marking.

(f) Whoever violates subsection (e) of this section is guilty of railroad grade crossing device vandalism. Except as otherwise provided in this division, railroad grade crossing device vandalism is a misdemeanor of the first degree. If the violation of subsection (e) of this section causes serious physical harm to property or creates a substantial risk of physical harm to any person, causes physical harm to any person, or causes serious physical harm to any person, railroad grade crossing device vandalism is a felony to be prosecuted under appropriate state law.
(ORC 2909.10, 2909.101)

553.06 GRADE CROSSING DEVICE VANDALISM.

(a) No person shall knowingly deface, damage, obstruct, remove or otherwise impair the operation of any railroad grade crossing warning signal or other protective device, including any gate, bell, light, crossbuck, stop sign, yield sign, advance warning sign, or advance pavement marking.

(b) Whoever violates this section is guilty of railroad grade crossing device vandalism. Except as otherwise provided in this subsection, railroad grade crossing device vandalism is a misdemeanor of the first degree. If the violation of this section causes serious physical harm to property, creates a substantial risk of physical harm to any person, causes physical harm to any person, or causes serious physical harm to any person, railroad grade crossing device vandalism is a felony and shall be prosecuted under appropriate State law. (ORC 2909.101)

553.99 PENALTY.

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

TITLE THREE - Utilities

Chap. 921. Sewer Regulations.
 Chap. 925. Water Regulations.
 Chap. 929. Rates and Charges.

CHAPTER 921 Sewer Regulations

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|---------------|--|---------------|--|
| 921.01 | Definitions. | 921.06 | Tampering prohibited. |
| 921.02 | Use of public sewers required. | 921.07 | Powers and authority of inspectors. |
| 921.03 | Private sewage disposal. | 921.99 | Penalty. |
| 921.04 | Building sewers and connections. | | |
| 921.05 | Prohibited discharges; industrial wastes. | | |

CROSS REFERENCES

Power to construct sewerage system - see Ohio R.C. 715.40, 717.01
 Compulsory sewer connections - see Ohio R.C. 729.06
 Management and control of sewerage system - see Ohio R.C. 729.50
 Regulations to control house sewers and connections - see Ohio R.C. 729.51
 Weekly deposit of sewer rentals collected - see Ohio R.C. 729.52
 Untreated sewage - see Ohio R.C. 3701.59
 Interference with sewage flow - see Ohio R.C. 4933.24
 Sewerage districts - see Ohio R.C. 727.44 et seq.
 Assessments - see Ohio R.C. Ch. 729
 Household sewage disposal systems - see OAC Ch. 3701-29

921.01 DEFINITIONS.

Unless the meaning of the context specifically indicates otherwise, the meaning of terms used in this chapter shall be defined as follows:

- (a) "Municipal waste works" means all facilities for collecting, pumping, treating and disposing of municipal wastes.
- (b) Being a City, the control of the sewer system shall be under the control of the Director of Utility Services which shall include the Director's duly authorized agents and employees.

- (c) "Municipal wastes" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments together with such ground, surface, and storm waters as may be present.
- (d) "Sanitary sewage" means domestic wastes contributed by reason of human occupancy.
- (e) "Industrial wastes" means the liquid wastes from industrial processes as distinct from sanitary sewage.
- (f) "Sewer" means a pipe or conduit for carrying municipal wastes.
- (g) "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority, whether the same shall have been installed by the Municipality or by private firms, persons or corporations under contracts and agreements of the Municipality.
- (h) "Combined sewer" means a sewer receiving both surface runoff and municipal wastes.
- (i) "Sanitary sewer" means a sewer which carries municipal wastes and to which storm, surface, and ground waters are not intentionally admitted.
- (j) "Storm sewer" or "storm drain" means a sewer which carries storm and surface waters and drainage, but excludes municipal wastes.
- (k) "Municipal wastes treatment plant" means any arrangement of devices and structures used for treating municipal wastes.
- (l) "Garbage" means solid wastes from the preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
- (m) "Properly shredded garbage" means the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
- (n) "Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning at three feet outside the building wall.
- (o) "Building sewer" means the extension from the building drain to the public sewer or other place of disposal.
- (p) "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty degrees Centigrade, expressed in parts per million by weight.
- (q) "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- (r) "Suspended solids" means solids that either float on the surface of, or are in suspension in water, municipal wastes, or other liquids; and which are removable by laboratory filtering.
- (s) "Natural outlet" means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.
- (t) "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.
- (u) "Person" means any individual, firm, company, association, society, corporation or group.
- (v) "Shall" is mandatory; "may" is permissive.
(Ord. 2021-4385, Passed 6-21-21.)

921.02 USE OF PUBLIC SEWERS REQUIRED.

(a) It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable wastes.

(b) It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(c) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

(d) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose, situated in the City and abutting on any street, alley or right of way, or easement in which there is now located or may in the future be located a public sanitary sewer of the City is hereby required at his expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 360 days from the date of the official notice to do so, provided that said public sewer is within two hundred, (200), feet of an occupied structure on the property.

(e) All sewer rates are charged against the property and not against the occupant(s) thereof. If the property owner elects to have his/her tenant(s) or lessee(s) pay the sewer charge with the rent, the property owner remains responsible and the Department will refuse to furnish sewer service to the property by discontinuing the water service to the premises until the delinquent charges are paid. In case of delinquent sewer charges against a property where more than one tenant or caretaker is supplied from the same service pipe, the property owner must provide a tamper-proof method of turning off the water provided to each metered service that is acceptable to the Director of Utility Services. This method as well as access to install it must be provided to agents of the Department of Utility Services within 24 hours of receiving the turn off notification. If said procedure is not followed in full, water service will be shut off at the street until said delinquent charges are paid, regardless of the fact that one or more of the consumers may not be delinquent.

New ownership shall not eliminate any provisions of this rule.
(Ord. 2021-4385. Passed 6-21-21.)

921.03 PRIVATE SEWAGE DISPOSAL.

(a) Where a public sanitary or combined sewer is not available under the provisions of Section 921.02(d), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter.

(b) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Licking County Health Department. They shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Licking County Health Department when the work is ready for final inspection, and before any underground portions are covered.

(c) The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Local Health District. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge into any public sewer or natural outlet.

(d) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Section 921.02(d), a direct connection shall be made to the public sewer in compliance with this chapter and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

(f) No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.
(Ord. 2021-4385. Passed 6-21-21.)

921.04 BUILDING SEWERS AND CONNECTIONS.

(a) No unauthorized person shall uncover, make any connection with, put into use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Director of Utility Services or his agent.

(b) There shall be two classes of building sewer permits:

(1) For residential and commercial service, and

(2) For service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the City. Their permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Director of Utility Services. A permit and inspection fee of ten dollars (\$10.00) for a residential or commercial building sewer permit and twenty dollars (\$20.00) for an industrial building permit shall be paid to the Finance Director of the City at the time the application is filed.

(c) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation, maintenance or operation of the building sewer.

(d) A separate and independent building sewer shall be provided for every building; except, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, as approved by the Director of Utility Services.

(e) Old building sewers may be used in connection with new buildings only when they are found, on examination, and tested by the Director of Utility Services to meet all requirements of this chapter.

(f) The building sewer shall be cast iron soil pipe, ASTM specification (A74) or equal, vitrified clay sewer pipe ASTM specification (C13) or equal or other suitable materials, as approved by the Director of Utility Services. All vitrified clay pipe shall be of the "O-Ring Type Construction" and no other type of joint shall be permissible except as approved by the Director of Utility Services. Joints shall be watertight and waterproof. If installed in filled or unstable ground, the building sewer shall be of cast iron soil pipe, except that non-metallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the Director of Utility Services or his agent.

(g) The size and slope of the building sewer shall be subject to the approval of the Director of Utility Services or his agent, but in no event shall the diameter be less than six inches. The slope of such six-inch pipe shall be not less than one-eighth inch per foot.

(h) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade and in straight alignment, insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings.

(i) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

(j) All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Director of Utility Services. Pipe laying and backfill shall be performed in accordance with ASTM specification (C12-19) except that no backfill shall be placed until the work has been inspected.

(k) All joints and connections shall be made gastight and watertight. All joints in vitrified clay pipe or between such pipe and metals shall be made with approved hot-poured jointing material or other acceptable jointing material approved by the Director of Utility Services or his agent.

Material for hot-poured joints shall not soften sufficiently to destroy the effectiveness of the joint when subjected to a temperature of 160 degrees Fahrenheit nor be soluble in any of the wastes carried by the drainage system. The joint shall first be caulked tight with jute, hemp or similar approved material.

(l) The connection of the building sewer into the public sewer shall be made at the "Y" Branch, if such branch is available at a suitable location. If the public sewer is twelve inches in diameter or less, and no properly located "Y" Branch is available, the owner shall at his expense install a "Y" Branch in the public sewer at the location specified by the Director of Utility Services. Where the public sewer is greater than twelve inches in diameter, and no properly located "Y" Branch is available, a neat hole may be cut into the public sewer to receive the building sewer, with entry in the downstream direction at an angle of about forty-five degrees. A forty-five degree ell may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at the same or at a higher elevation than the invert of the public sewer. A smooth, neat joint shall be made, and the connection made secure and watertight by encasement in concrete. Special fittings may be used for the connection only when approved by the Director of Utility Services.

(m) The applicant for the building sewer permit shall notify the Director of Utility Services or his agent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Director of Utility Services or his representative.

(n) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner of satisfactory to the City. (Ord. 2021-4385. Passed 6-21-21.)

921.05 PROHIBITED DISCHARGES; INDUSTRIAL WASTES.

(a) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.

(b) Storm water and all other unpolluted drainage shall be discharged to such sewers or to a natural outlet approved by the Director of Utility Services or his agent. Industrial cooling water or unpolluted process waters may be discharged upon approval of the Director of Utility Services to a storm sewer or a natural outlet.

(c) No person shall discharge or cause to be discharged any of the following waste materials to any public sewer:

- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
- (2) Any garbage that has not been properly shredded.
- (3) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the municipal waste works.
- (4) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(d) The admission of any industrial wastes containing critical characteristics such as: excessive temperatures, oils, fats, or grease, pH lower than 5.5 or higher than 9.5; or having other corrosive properties; toxic or poisonous ingredients; excessive suspended solids; cyanide, free acid or caustic alkaline solution; or any other constituent critical to municipal waste collection and treatment shall be subject to the review and approval of the Director of Utility Services or his agent. When in the opinion of the Director of Utility Services, preliminary treatment or control of wastes is necessary, suitable facilities shall be constructed according to plans approved by the Director of Utility Services at the expense of the owner.

(e) Grease, oil and sand interceptors shall be provided at the expense of the owner when, in the opinion of the Director of Utility Services, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, and other harmful ingredients; except, that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Director of Utility Services and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil separators shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gastight and watertight.

(f) "REGULATIONS ON FATS, OILS, AND GREASE (FOG) AND BEST MANAGEMENT PLAN (BMP) FOR FOOD SERVICE ESTABLISHMENTS" as currently written or as maybe hereafter be amended is adopted as a policy to serve in conjunction with the provisions of this section. The "REGULATIONS ON FATS, OILS, AND GREASE (FOG) AND BEST MANAGEMENT PLAN (BMP) FOR FOOD SERVICE ESTABLISHMENTS" are to be available on file located in the Office of the Director of Utility Services and in the Administrative Offices of the City and provided to any member of the public upon appropriate request.

(g) The admission into the public sewers of any waters or wastes having a five-day biochemical oxygen demand in excess of normal sewage shall be subject to the review and approval of the Director of Utility Services. When necessary in the opinion of the Director of Utility Services, such preliminary treatment as may be needed to control the quantities and rates of discharges or reduce objectionable characteristics or constituents shall be constructed according to plans approved by the Director of Utility Services at the expense of the owner.

(h) Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(i) When required by the Director of Utility Services, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Director of Utility Services. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(j) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in subsections (c) and (g) hereof shall be determined in accordance with "Standard Methods for the Examination of Water and Sewage" and shall be determined at the control manhole provided for in subsection (i) hereof, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(k) No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment subject to payment therefor by the industrial concern.
(Ord. 2021-4385. Passed 6-21-21.)

921.06 TAMPERING PROHIBITED.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is part of the municipal sanitary sewage system. Any person so doing shall be subject to immediate arrest, punished as provided by Section 921.99.
(Ord. 2021-4385. Passed 6-21-21.)

921.07 POWERS AND AUTHORITY OF INSPECTORS.

(a) The Director of Utility Services or his agent shall make and enforce rules and regulations subject to approval of Council, establishing the types and characteristics of sanitary sewage and industrial wastes and other matter, not specifically covered in this chapter, which shall not be discharged into the Pataskala sewerage system and the types and characteristics of sanitary sewage and industrial wastes admissible to the Pataskala sewerage system only after pretreatment. Such rules and regulations shall be subject to appeal to Council which shall appoint three reputable and qualified persons to investigate the appeal and agree to affirm or reject the ruling of the Director of Utility Services or his agent.

(b) The Director of Utility Services or his agent, and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. (Ord. 2021-4385. Passed 6-21-21.)

921.99 PENALTY.

(a) Any person found to be violating any provision of this chapter except Section 921.06 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time not to exceed thirty days for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person who shall continue any violation beyond the time limit provided for in subsection (a) hereof, shall be fined in the amount not exceeding two hundred dollars (\$200.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

(c) Any person violating any of the provisions of this chapter shall become liable to the City for any expense, loss, or damage occasioned by the City by reason of such violation.

(d) Whoever violates Section 921.06 shall be fined not less than one hundred dollars (\$100.00) for each offense, and/or imprisoned for not more than six months. In no case shall the fine be less than those costs incurred by the City for reasonable damages or special expenses including but not limited to, equipment rental, chemicals, and/or labor necessary for the proper operation and maintenance of all waste water facilities involved in this violation and the cost of prosecution of the offense. Each day on which a violation shall occur shall be deemed a separate offense. In addition to the penalties provided above, the City shall be entitled to recover reasonable attorney's fees, court costs, court reporter's fees and any other expense of litigation and prosecution and the Mayor/Judge may require, the payment of such damages as a condition to the suspension of any fine and/or imprisonment provided above. (Ord. 2021-4385. Passed 6-21-21.)

CHAPTER 925 Water Regulations

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| 925.01 Rules and regulations. 925.02 Backflow prevention devices; private water supply; inspections. | 925.03 Lawn watering. 925.99 Penalty. |
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CROSS REFERENCES

Water power contract - see Ohio R.C. 735.08
 Easements for water supply - see Ohio R.C. 715.34
 Contract for water supply - see Ohio R.C. 743.24, 4933.04
 Power to regulate water rates - see Ohio R.C. 743.26, 743.28,
 4909.34 et seq.

925.01 RULES AND REGULATIONS.

RULE 1. The control of the water system shall be under the control of the Director of Utility Services which shall include the Director's duly authorized agents and employees.

Meters shall only be set or removed by authorized employees of the Department of Utility Services.

Water shall only be turned on or off by authorized employees of the Department, provided however, that plumbers may turn water on to test their work, but must shut it off immediately after such test.

No connection shall be made ahead of any meter.

Meters shall not be tampered with, repaired or seals broken except by authorized employees of the Department of Utility Services.

No changes, alterations or extensions of any fire system shall be made without first securing a permit from the Director of Utility Services. Application for the same shall be made in the same manner and under the same conditions as for a new connection.

RULE 2. Water service connections will not be made to any premises until the owner or his duly authorized agent has made application therefor, upon a form prepared for the purpose and signed a contract agreeing to be responsible for the water rent on said premises.

RULE 3. No person other than the properly authorized agents of the Department of Utility Services will be permitted to tap or make any connection with the main or distributing pipes of the water distribution system.

RULE 4. For all new water service connections, a single service pipe, intended and used for only one premises or tenements must be provided with separate and distinct curb cocks for each tenement, to be placed on the outside of each premises near the public right of way, as the Department of Utility Services may direct.

RULE 5. Persons taking water must keep their service pipes, meters, and fixtures connected therewith in good repair and protected from frost and hot water at their own expense, and must prevent any unnecessary waste of water.

RULE 6. No addition to or alteration of any taps, pipe, water-cock or other fixtures, shall be made, or caused to be made by persons taking water, except through a duly licensed plumber, and by permit obtained from the Department of Utility Services.

RULE 7. Failure to receive notice by mail will be no excuse for not paying water bills.

RULE 8. All water rates are charged against the property and not against the occupant thereof. If the owner of the premises elects to have his tenant or lessee pay the water rent, the owner is responsible and the Department will refuse to furnish any more water to the premises until the delinquent water rent is paid. In case of a delinquent water rent against a property where more than one tenant or caretaker is supplied from the same service pipe, the property owner must provide a tamper-proof method of turning off the water provided to each metered service that is acceptable to the Director of Utility Services. The method as well as access to install it must be provided to agents of the Department of Utility Services within 24 hours of receiving the turn off notification. If said procedure is not followed in full, the water will be turned off at street until said delinquent water is paid, regardless of the fact that one or more of the consumers may not be delinquent.

New ownership shall not eliminate any provisions of this rule.

RULE 9. All unpaid water rents become delinquent on the 15th of the month of issue, and water shall be shut off without further notice, it being deemed sufficient notice of such assessment being due when the original bills were mailed to consumer or owner. When shut off, it shall not be turned on again unless the amount is paid in full together with an additional charge of thirty-five dollars (\$35.00) to reimburse the Department of Utility Services for losses in time, etc., sustained by such delinquency of the premises.

Final/Initial meter readings will not be obtained on rental properties. Meter readings from the monthly reading cycle will be used for billing purposes. Any partial month consumption by a tenant will be the responsibility of the property owner.

Collections on rental properties are completed following the same procedure as all other properties in the City of Pataskala. Payment plans and extensions are available to all customers, to include rental properties, pending approval from the Department of Utility Services. The Department of Utility Services will attempt to contact the owner of a rental property before granting a payment plan.

RULE 10. If a meter gets out of order and fails to register, the consumer will be charged at the average daily consumption as shown by the meter when in order. All water that passes through a meter shall be paid for whether used or not. The Department of Utility Services reserves the right to repair all meters whenever necessary.

RULE 11. The authorized agents of the Department of Utility Services shall have free access at all reasonable hours of the day to all parts of the premises to which water is supplied, and upon discovery at any time of any irregularities in making attachment, the water may be shut off without notice, until a remedy has been provided satisfactory to the Department, and a fee of thirty-five dollars (\$35.00) paid as an equivalent for loss and damage sustained and labor and time spent in turning on and off the water.

RULE 12. All water connections installed shall be supplied by meter only. The meter shall be furnished by the Department of Utility Services, at the expense of the owner.

RULE 13. Where real estate or other property upon which there are water distribution system fixtures is transferred from one party to another, the Department of Utility Services must be notified and all charges against the same paid in full.

RULE 14. The minimum rate on meters must be paid for the entire time whether the premises are occupied or not; unless the owner or tenant notifies the Department of Utility Services immediately upon vacancy of such fact and requests the Department to turn the water off at the curb stop. In the case of apartment houses or any services that have more than one meter on a single service connection, the minimum rate must be paid for the entire time, unless the water is turned off at the street.

The Department will not seal or disconnect any meter on the consumers' premises to relieve them from paying the minimum rate.

The Department reserves the right to order a master meter installed upon any service where there is more than one meter on a single service line, by giving thirty days' notice of refusal to continue service under the above conditions. Upon the installation of a master meter, the Department will render only one bill for the entire water supplied by the service. The property owner or owners can read the several meters and then apportion the assessment as they see fit.

RULE 15. Barring an emergency, no one, other than authorized government entities and/or first responders, shall operate any publicly owned infrastructure, which includes but is not limited to, main valves, fire hydrants, and curb stops. Nor shall anyone, other than an authorized government entity and/or first responder be permitted to use water from any service, unless the use is metered. Whoever violates this Rule shall pay a fine not to exceed one thousand dollars (\$1,000.00) for each violation. Every day a violation occurs constitutes a separate offense.

RULE 16. When manufacturers and others desire fire protection, the application must be made to the Director of Utility Services; said application to be accompanied by a diagram showing in detail the service requested. The line must be separate and distinct from the main to the property and no attachments for any other purposes than for fire will be permitted. The Department of Utility Services reserves the right of inspection at all times and for such inspection an annual fee of ten dollars (\$10.00) will be demanded; and also reserves the right to seal any and all connections, which seals can only be broken in case of fire; should a seal be broken from any other cause the same must be reported to the Department within twenty-four hours.

RULE 17. If any consumer or owner neglects or refuses to pay for repairs found necessary to be made to meters due to frost, hot water or other negligence of the owner or consumer, or for water furnished, or violates any of the provisions of these rules or ordinances for the management and protection of the Department of Utility Services, the water will be turned off without any preliminary notice, and will not be turned on again until all such charges and damages shall have been paid.

RULE 18. Any plumber wishing to obtain permission to make connections or attachments to the service pipes of the Department of Utility Services, shall before receiving a license permit to do so, state his willingness, and agree to be governed by all and singular, the rules and regulations of said Department of Utility Services and be subject to all rules, penalties and conditions heretofore or that may be hereafter adopted for the government of the Department of Utility Services.

RULE 19. No plumber shall, after making any connections with the service pipes, or after making repairs, or putting in any new attachments, leave the curb-stop open and the water turned on, on the premises without permission from the Department of Utility Services.

RULE 20. Any plumber leaving water turned on without the permission of the Department of Utility Services shall be held responsible for all water so used.

RULE 21. The portion of the water service line that is publicly owned includes but is not limited to, the water main and the curb cock near the publicly owned right of way, as well as all components in between. The water meter and data transferring unit are also publicly owned, regardless of their locations in the service line. All other components of the water service line are privately owned and will remain the responsibility of the owner.

RULE 22. In furnishing the line from the street, the Department of Utility Services will determine the size of the tap to be made in the water main under any application, and in no event will one consumer be granted a larger size unless said consumer pays the difference in cost of such increase desired over the standard tap as usually made.

RULE 23. A ten percent (10%) penalty will be charged on all bills unpaid on the 15th of each month in which bills are rendered.

RULE 24. Repairs to meters will be made by the Department of Utility Services, and if caused by any of the following reasons, a charge will be made for same:

Water freezing in them;

Hot water backing into them;

Damage by reason of negligence or accident not the fault of the Department of Utility Services.

Bills for meter repairs must be paid within twenty days from date of invoice, and if not paid, water will be turned off without notice and an additional charge made for resumption of service.

RULE 25. REGULATION ON PRIVATE WELL SYSTEMS.

(a) The owner of all new houses or buildings used for human occupancy, employment, recreation or other purpose; situated in the City may be required to connect to the City of Pataskala's Water System if a water main is within two hundred (200) feet of structures designed for habitation, employment, recreation or other purpose.

(b) If an existing well system for a house or building used for human occupancy, employment, recreation or other purpose fails, or is unable to be repaired to meet the potable water needs of the structure the owner may be required to connect to the City of Pataskala's Water System if a water main is within two hundred (200) feet of the structure. Approval will include Department of Utility Service and County Health officials.

(c) The installation of new wells within a 1,000 feet radius of any Well Heads located at Pataskala Well Fields requires Department of Utility Services and County Health Department approval.

(d) Private wells used for non-potable uses where Pataskala portable water is provided to the structure may be subject to an inspection by the Department of Utility Services to determine if a Backflow Prevention Device is applicable. The Department of Utility Services recommends such devices be utilized.

(e) The reinstatement of an abandoned well for potable water may be approved if the Pataskala Department of Utility Services provides potable water to the structure. However the structure owner may still be responsible for basic fees associated with the water service. Approval will include Department of Utility Services and County Health Officials.
(Ord. 2021-4384. Passed 6-21-21.)

925.02 BACKFLOW PREVENTION DEVICES; PRIVATE WATER SUPPLY; INSPECTIONS.

(a) If, in the judgment of the Director of Utility Services, an approved backflow prevention device is necessary for the safety of the public water system; the Director of Utility Services will give notice to the water consumer to install such an approved device immediately. The water consumer shall at his/her own expense install such an approved device at a location and in a manner approved by the Director of Utility Services and shall have inspections and tests made of such approved devices as required by the Director of Utility Services.

(b) No person, firm, corporation shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply of the City of Pataskala may enter the supply or distributing system of said municipality, unless private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Director of Utility Services of the City of Pataskala Ohio and by the Ohio Environmental Protection Agency.

(c) It shall be the duty of the Director of Utility Services to cause surveys and investigations to be made of industrial and other properties served by the public water supply where actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated as often as the Director of Utility Services shall deem necessary.

(d) The Director of Utility Services of the City of Pataskala or its duly authorized representative shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system of the City of Pataskala for the purpose of inspecting the piping system or systems thereof. On demand of the owner, lessees, or occupants of any property so served shall furnish to the Director of Utility Services any information, which he/she may request regarding the piping system or systems or water use on such property. The refusal of such information, when demanded shall, within the discretion of the Director of Utility Services, be deemed evidence of the presence of improper connections as provided in this ordinance.

(e) The Director of Utility Services of the City of Pataskala is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this section is known to exist, and to take such other precautionary measures as he/she may deem necessary to eliminate any danger of contamination of the public water supply distribution system. Water service to such property shall not be restored until such conditions shall have been eliminated or corrected in compliance with the provisions of this section.

(f) "Regulations on Cross-Connection Control" as currently written or as maybe hereafter be amended is adopted as a policy to serve in conjunction with the provisions of this section. The "Regulations on Cross-Connection Control" are to be available on file located in the Office of the Director of Utility Services and in the Administrative Offices of the City and provided to any member of the public upon appropriate request.
(Ord. 2021-4384. Passed 6-21-21.)

925.03 LAWN WATERING.

(a) No domestic or commercial user or any other person shall use water supplied by the City to sprinkle, saturate, water, or wet their lawn or grass except in accordance with the conditions established in subsection (b) hereof. For the purposes of this section, "lawn" or "grass" is intended to include grass, ivy or any other form of ground cover, but shall not be construed to include gardens, shrubs, trees, and flowers.

(b) Lawn sprinkling shall be permitted in compliance with the following odd/even systems. Residents with a street address number as assigned by the assigning authority ending in an odd number shall water their lawn or grass only on days of the year ending with an odd number. Residents with a street address number assigned by the assigning authority ending in an even number shall water their lawn or grass only on days of the year ending in an even number.

(c) Whoever violates the prohibition described in this section is guilty of an unclassified misdemeanor and may be fined up to five hundred dollars (\$500.00) if convicted of a violation of the lawn watering restriction. Repeated violations of this section may result in reduction or termination of water service.

(Ord. 2021-4384. Passed 6-21-21.)

925.99 PENALTY.

Whoever violates any provision of this chapter where no other penalty is provided is guilty of a misdemeanor of the third degree.

(Ord. 2021-4384. Passed 6-21-21.)

CODIFIED ORDINANCES OF PATASKALA

PART TWELVE - ZONING CODE

TITLE ONE - Zoning Administration

- Chap. 1201. Purpose and Interpretation.
- Chap. 1203. Definitions.
- Chap. 1205. Measurements.
- Chap. 1207. Administration.
- Chap. 1209. Enforcement and Penalty.
- Chap. 1211. Appeals and Variances.
- Chap. 1213. Similar Uses.
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TITLE THREE - Zoning Districts and Regulations

- Chap. 1221. General Regulations.
- Chap. 1223. Distressed Properties.
- Chap. 1225. Agricultural District (AG).
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- Chap. 1231. Medium Density Residential District (R-20).
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- Chap. 1243. Professional Research-Office District (PRO).
- Chap. 1245. Downtown Business District (DB).
- Chap. 1247. Local Business District (LB).
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- Chap. 1251. Light Manufacturing District (M-1).
- Chap. 1253. Planned Manufacturing District (PM).
- Chap. 1255. Planned Development Districts.
- Chap. 1257. Flood Damage Prevention and Flood Plain Overlay District (FP).
- Chap. 1259. Transportation Corridor Overlay District (TC).
- Chap. 1261. Plan Districts in General.
- Chap. 1263. Olde Towne Pataskala District.
- Chap. 1265. Uses Defined by the North American Industrial Classification System (NAICS).

TITLE FIVE - Additional Zoning Standards

- Chap. 1267. Home Occupations.
- Chap. 1269. Rental Units.
- Chap. 1271. Adult Entertainment Facilities.
- Chap. 1273. Bed and Breakfast Facilities.
- Chap. 1275. Cluster Housing.
- Chap. 1277. Hotels and Motels.
- Chap. 1279. Fences.
- Chap. 1281. Gasoline Service Stations.
- Chap. 1283. Landscaping and Screening.
- Chap. 1285. Nonconforming Uses and Structures.
- Chap. 1287. Off-Site Impacts.
- Chap. 1289. Oil and Gas Well Regulations.
- Chap. 1291. Parking and Loading.
- Chap. 1293. Wireless Telecommunications Facilities.
- Chap. 1294. Impact Fees.
- Chap. 1295. Signs.
- Chap. 1296. Residential Appearance Standards.
- Chap. 1297. Swimming Pools.
- Chap. 1298. Temporary Activities.
- Chap. 1299. Medical Marijuana Facilities.

ZONING MAP

TITLE FIVE - Additional Zoning Standards

- Chap. 1267. Home Occupations.
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- Chap. 1275. Cluster Housing.
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- Chap. 1297. Swimming Pools.
- Chap. 1298. Temporary Activities.
- Chap. 1299. Medical Marijuana Facilities.

CHAPTER 1267 Home Occupations

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|---|---|
| 1267.01 Purpose. | 1267.04 Site-related standards. |
| 1267.02 Description of Type A and Type B accessory home occupations. | 1267.05 Impact-related standards. |
| 1267.03 Use-related regulations. | 1267.06 Type A and B home occupation permit. |

CROSS REFERENCES

- Home occupation defined - see P. & Z. 1203.03
- Bed and breakfast facilities - see P. & Z. Ch. 1273

1267.01 PURPOSE.

Accessory home occupations are activities accessory to uses in the Household Living category. They have special regulations that apply to ensure that home occupations will not be a detriment to the character and livability of the surrounding neighborhood. The regulations ensure that the accessory home occupation remains subordinate to the residential use, and that the residential viability of the dwelling is maintained. The regulations recognize that many types of jobs can be done in a home with little or no effects on the surrounding neighborhood.

1267.02 DESCRIPTION OF TYPE A AND TYPE B ACCESSORY HOME OCCUPATIONS.

There are two types of home occupations, Type A and Type B. Uses are allowed as home occupations only if they comply with all of the requirements of this chapter.

- A. Type A. A Type A home occupation is one where the residents use their home as a place of work; however, no employees or customers come to the site. Examples include artists, crafts people, writers, and consultants. Type A home occupations also provide an opportunity for a home to be used as a business address but not as a place of work.
- B. Type B. A Type B home occupation is one where either one employee or customers come to the site. Examples are counseling, tutoring, daycare, and hair cutting and styling.
- C. Bed and breakfast facility. Bed and breakfast facilities are exempt from the regulations of this chapter. The regulations for bed and breakfast facilities are stated in Chapter 1273.
- D. Family daycare. Family daycare for up to 6 children at one time and in which no more than 3 children may be under two years of age at one time (Type B family day-care home, Ohio R.C. 5104) is exempt from the regulations of this chapter.

1267.03 USE-RELATED REGULATIONS.

A. Allowed uses. The intent of the regulations of this chapter is to establish performance standards for all accessory home occupations rather than to limit the allowed uses to a specific list. Uses which comply with the standards of this chapter are allowed by right unless specifically listed in subsection B. below.

B. Prohibited uses.

- 1. Any type of repair or assembly of vehicles or equipment with internal combustion engines (such as autos, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, chain saws, and other small engines) or of large appliances (such as washing machines, dryers, and refrigerators) or any other work related to automobiles and their parts is prohibited.
- 2. Accessory home occupations may not serve as dispatch centers where employees come to the site and are dispatched to other locations.
- 3. A Type B accessory home occupation is prohibited in a residence with an accessory rental unit.

C. Additional Type B home occupation regulations. The following additional regulations apply to Type B home occupations.

- 1. Hours. Customers may visit the site only during the hours of 7:00 a.m. to 9:00 p.m.
- 2. Nonresident employees. One nonresident employee is allowed with a Type B home occupation. For the purpose of this chapter, the term "nonresident employee" includes an employee, business partner, co-owner, or other person affiliated with the home occupation, who does not live at the site, but who visits the site as part of the home occupation. Variances to this subsection are prohibited.

CHAPTER 1294 Impact Fees

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|----------------|--|----------------|---|
| 1294.01 | Purpose and intent. | 1294.05 | Establishment of impact fee fund; use and appropriation of impact fee proceeds; and refunds. |
| 1294.02 | Definitions. | 1294.06 | Review and adjustments. |
| 1294.03 | Applicability and exemptions. | 1294.07 | Street impact fee. |
| 1294.04 | Procedures for imposition, calculation, reimbursement, credit, and collection of impact fees. | | |

1294.01 PURPOSE AND INTENT.

The purpose and intent of this chapter are:

- (a) To establish uniform procedures for the imposition, calculation, collection, expenditure, and administration of impact fees imposed on new development;
- (b) To assure new development contributes its fair and proportionate share towards the costs of public facilities reasonably necessitated by such new development;
- (c) To ensure new development benefits from the provision of the public facilities provided with the proceeds of impact fees;
- (d) To ensure impact fees collected pursuant to this chapter are expended only on public facilities the demand for which is generated by the new development against which the fees are assessed;
- (e) To ensure impact fees assessed pursuant to this chapter are proportionate in amount to the degree of impact new development has on public facilities; and
- (f) To ensure all applicable legal standards and criteria are properly incorporated in these procedures.

(Ord. 2021-4396. Passed 8-16-21.)

1294.02 DEFINITIONS.

Words and terms not specifically defined below carry their normal dictionary meanings. An additional reference for zoning and development terms is The New Illustrated Book of Development Definitions, Harvey S. Moskowitz and Carl G. Lindbloom, ISBN 0-88285-144-6 or the latest edition:

- (a) "Applicant." Any person who files an application with the City for a zoning permit to undertake new development within the City.

- (b) "Appropriation or to appropriate." An action by the City or City Administrator to identify specific public facilities for which impact fee funds may be utilized. "Appropriation" shall include, but is limited to: inclusion of a public facility in the adopted City budget, capital improvements plan, or comprehensive plan; execution of a contract or other legal encumbrance for construction or acquisition of a public facility using impact fee funds in whole or in part; and/or the expenditure or transfer of impact fee funds from an impact fee account for the financing of public facilities that provides or will provide a roughly proportionate benefit to new development.
- (c) "Capital Improvement Plan." A schedule of public facility improvements to be undertaken by the City as determined from time to time by the City Council or as set forth in the capital budget and/or the comprehensive plan.
- (d) "City." City of Pataskala, Ohio.
- (e) "City Council." The Council of the City of Pataskala, Ohio.
- (f) "City Administrator." The City Administrator for the City of Pataskala, Ohio or his/her designee.
- (g) "Codified Ordinances." The Codified Ordinances of Pataskala, Ohio, as amended from time to time.
- (h) "Comprehensive Plan" The Comprehensive Plan for the City and any subsequent plans adopted by City Council.
- (i) "Credit." A reduction in the amount of an Impact Fee due pursuant to this chapter that may be granted pursuant to an approved reimbursement and validly executed development agreement between the City and an applicant, which results in the provision of excess public facility capacity sufficient to offset the impacts of the proposed new development on public facilities.
- (j) "Finance Director." The Finance Director for the City of Pataskala, Ohio or his/her designee.
- (k) "Institutional." Establishments designed to aid individuals in need of mental, therapeutic, rehabilitative counseling or other correctional services.
- (l) "Light Industrial." Establishments characterized by a mix of manufacturing (small items), service, and warehouse facilities in the same building with a wide variation in the proportion of each type of use.
- (m) "Manufacturing" Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as oils, plastics, resins, or liquors.
- (n) "Impact Fee." A fee imposed on new development on a proportionate basis in connection with, and as a condition of, the issuance of a zoning permit and which is calculated to defray all or a portion of the costs of the public facilities required to accommodate new development at City-designated level of service (LOS) standards and which provides a roughly proportionate benefit to new development and is proportionate in amount to actual impact of new development on the public facilities to be funded with impact fee funds.
- (o) "Methodology report." A report titled "Impact Fee Methodology and Costing Report" prepared in support of this chapter. by Strand Associates, Inc., dated May, 2021 which sets forth the methodology and rational basis for the determination of the impact of new development on public facilities; the proper and proportionate amount of the impact fee to be assessed against new development; and the mechanisms for ensuring that a rational nexus exists between the fee amount and the impact of new development on public facilities and the roughly proportionate benefits that accrue to new development paying the impact fee.

- (p) "New development." Any construction, reconstruction; redevelopment, rehabilitation, structural alteration, structural enlargement, structural extension, or new use within the City that requires a zoning permit after the effective date of this chapter, including any change in zoning district of an existing building, structure, or lot that increases the demand for one or more public facility; except as otherwise provided in Section 1294.03(d).
- (q) "Nonresidential." Any use or development that is not a residential use.
- (r) "Office." Establishments used primarily for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, computers, and communication equipment.
- (s) "Planning and Zoning Code." Part 12 of the Codified Ordinances of the City of Pataskala.
- (t) "Public facility." Non-site-related capital improvements to the roadway network including roadway widening, intersection improvements, and associated infrastructure that provides a roughly proportionate benefit to new development. "Public facilities" are nonrecurring and are treated as capitalized expenses according to generally accepted governmental accounting principles. "Public facilities" do not include costs associated with the operation, repair, or maintenance of public facilities.
- (u) "Public facility expenditures." Amounts appropriated in connection with the planning, design, engineering, and construction of public facilities; including planning, legal, appraisal, and other costs related to the acquisition of land, financing (including the issuance of bonds or other obligations of indebtedness used to pay for public facilities), and development costs; the costs of compliance with purchasing procedures and applicable administrative and legal requirements; and all other costs necessarily incident to the provision of public facilities.
- (v) "Reimbursement." Repayment of impact fees in an amount that fairly reflects the value of public facilities dedicated or constructed by an applicant.
- (w) "Residential use." Any use or development that includes or results in the creation of a dwelling unit, as defined in the Codified Ordinances.
- (x) "Restaurant." Establishments where food and drink are prepared and sold for consumption within the facility or consumption outside of the facility and where ordering and pickup may take place from an automobile.
- (y) "Retail." Establishments engaged in selling or renting goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.
- (z) "Service charge." A charge against each applicant paying an impact fee, not to exceed two percent (2%) of the total impact fee assessed against the proposed new development, used solely for costs incurred in the administration of this chapter.
- (aa) "Warehousing." Establishments engaged in the receipt, storage, and/or distribution of goods, products, cargo and materials.
- (bb) "Zoning Permit" A document issued by the City Administrator in accordance with the Zoning Code authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses.
(Ord. 2021-4396. Passed 8-16-21.)

1294.03 APPLICABILITY AND EXEMPTIONS.

- (a) Term. This chapter and the procedures established herein shall remain in effect unless and until repealed, amended, or modified by City Council.

(b) Affected Area. Impact Fees are to be imposed on new development proposed within the corporate boundaries of the City, as they exit now or as changed from time-to-time.

(c) Type of Development Affected. Except as provided in paragraph (d) below, this chapter applies to all new development and all revenue producing areas of the development

(d) Type of Development Not Affected; Exemptions. This chapter does not apply to:

- (1) No net increase in nonresidential development. No Impact Fee shall be imposed on any new nonresidential development that does not increase the demand for public facilities; this includes, but is not limited to, such non-revenue producing areas of a development such as storage yards, porches without sales area or merchandise displays, and all similar such areas.
- (2) Remodeling or improvements. No Impact Fee shall be imposed for remodeling or improvements to an existing structure provided there is no change in use and no net increase in the number of dwelling units or amount of nonresidential floor area.
- (3) Replacements. No Impact Fee shall be imposed on the replacement of a destroyed or partially destroyed structure provided there is no change in use and no net increase in the number of dwelling units or amount of nonresidential floor area.
- (4) Temporary uses. No Impact Fee shall be imposed on a temporary use, including construction trailers and offices, but only for the life of the zoning permit issued for the construction served by the trailer or office.
- (5) Development agreements. No Impact Fee shall be imposed on new development that is the subject of a duly executed and lawful development agreement entered into by an applicant and the City prior to the effective date of this chapter, which agreement contains provisions in conflict or inconsistent with this chapter, but only to the extent of the conflict or inconsistency.
- (6) Governmental uses. Prior to the application for a zoning permit, a local, regional, State or Federal governmental agency or school district may seek an exemption to this chapter by applying to City Council, who shall review all such exemption applications and shall establish a reasonable basis for the granting or denying of all such requests.
- (7) Other uses. No Impact Fee shall be imposed on a use, development, project, structure, building, fence, sign or other activity whether a zoning permit is required, which does not result in an increase in the demand for public facilities
- (8) Non-profit organizations. No Impact Fee shall be imposed on any nonprofit organization (NPO), also known as a non-business entity, not-for-profit organization, or nonprofit institution, or any other legal entity organized and operated for a collective, public or social benefit, in contrast with an entity that operates as a business aiming to generate a profit for its owners.
- (9) Extraordinary Economic Development. City Council may exempt all, or part of, a particular development project from Impact Fees if such project is determined, under the criteria set forth below, to create extraordinary economic development and/or employment growth.

- A. The City hereby establishes a policy to encourage employment growth and economic development in order to provide a balance between jobs and housing, provide adequate income levels for its residents, and to promote balanced and orderly growth. Further, it is the intent of this section to establish a mechanism that removes potential regulatory barriers to the establishment of businesses that provide employment and economic development in the City, and it is the further specific intent of this section that the waiver provisions contained herein shall not apply to residential developments. The City specifically desires to review all applications for exemptions on an individual basis and further wants the review and approval process to be fair, consistent, and based on established criteria. Also, the process should ensure the businesses that are granted exemptions actually provide the benefits recited in this section and the due process rights of all applicants are protected.
- B. In order to grant an exemption under this section, City Council shall:
- i. Review the City Administrator's recommendation and the Finance Committee's recommendation, and shall;
 - ii. Conduct a public hearing at which the applicant may explain the elements of its application and present any further information that may assist in City Council's review, and may;
 - iii. Grant the requested exemption only if City Council determines:
 - a. The application fully meets the policies herein established; and
 - b. The projected employment growth is based on either existing payroll figures or other available evidence that reflects a potential annual payroll that exceeds two and one-half million dollars (\$2,500,000.00) and it is recognized that this threshold may be adjusted upward based on an annual Council review; and
 - c. The value of the exemption or waiver is recovered in twenty-four (24) months based on projected income tax revenues from the development.
 - iv. Enter into a written contract with the Applicant that requires the Applicant to repay the exempted Impact Fees if the conditions under which the exemption was granted are not fully and timely met.
- (Ord. 2021-4396. Passed 8-16-21.)

1294.04 PROCEDURES FOR IMPOSITION, CALCULATION, REIMBURSEMENT, CREDIT, AND COLLECTION OF IMPACT FEES.

(a) In General. The City Administrator must notify the applicant of the applicable Impact Fee requirements, including applicable service charges, at the time of application for a zoning permit on a form provided by the City. The City Administrator must calculate the applicable impact fee at the time of application for a zoning permit. The City may not issue a zoning permit until the applicant has paid all impact fees due pursuant to this chapter.

(b) Non-binding Impact Fee Estimate. An applicant may request a non-binding estimate of Impact Fees due for a particular new development at any time by filing a request on a form provided for such purpose by the City; provided, however, that such estimate may be subject to change when a formal application for a zoning permit for new development is made. Such non-binding estimate is solely for the benefit of the prospective applicant and in no way binds the City or precludes it from making amendments or revisions to any provisions of this chapter or the specific impact fee implementing ordinances. No vested rights, legal entitlements, or equitable estoppel accrue by reason of a non-binding estimate. A non-binding fee estimate does not constitute a final decision and may not be appealed.

(c) Calculation.

- (1) Upon receipt of an application for a zoning permit, the City Administrator must determine:
 - (a) whether the proposed new development constitutes a residential or nonresidential use;
 - (b) the specific category of residential or nonresidential development; and (c) the amount of additional square feet of nonresidential gross floor area or the number of additional dwelling units associated with the proposed use.
- (2) If the application for a zoning permit involves a change in zoning district, the Impact Fee must be calculated upon the incremental increase in the public facility capacity created by the proposed change in zoning district.
- (3) After making these determinations, the City Administrator must calculate the applicable Impact Fee by multiplying the number of dwelling units or amount of nonresidential floor area proposed by the amount of the applicable Impact Fee per unit of development, incorporating any applicable exemptions or credits.
- (4) If the type of land use proposed for new development is not expressly listed in this Chapter and Impact Fee schedule, the City Administrator, in consultation with other City staff and consultants, as necessary, must:
 - A. Identify the most similar land use type listed and calculate the Impact Fee based on the Impact Fee for the land use identified;
 - B. Identify the broader land use category within which the specified land use would apply and calculate the Impact Fee based on the Impact Fee for that land use category; or
 - C. As appropriate, determine the basis used to calculate the Impact Fee pursuant to an independent impact analysis pursuant to subsection (d) below.
 - D. The City Administrator's determination must be based on a generally accepted land use classification system (e.g., the North American Industry Classification System, the Land-Based Classification Standards, and/or ITE's Trip Generation Manual) and the methodology report.
- (5) The calculation of Impact Fees due from a multiple-use new development must reflect the aggregated demand for each public facility generated by each land use type within the proposed new development.
- (6) The calculation of Impact Fees due from a phased new development must reflect the demand generated by each specific land use within the phase of development for which a separate zoning permit is requested.
- (7) Impact fees must be calculated based on the Impact Fee amount in effect at the time of application for a zoning permit.

(d) Independent Impact Analysis. If the applicant believes the Impact Fee calculations are in error or would violate a right that is protected by either the State or Federal constitutions, the applicant shall conduct an Impact Fee analysis. The following provisions shall apply to any independent impact analysis:

- (1) The applicant is responsible, at its sole expense, for conducting and preparing the independent impact analysis, which must be reviewed for approval by the City Administrator prior to payment of the fee.
- (2) The independent impact analysis must measure the impact that the proposed new development will have on the particular public facility at issue, must be based on the same methodologies used in the methodology report, and must be supported by professionally acceptable data and assumptions.
- (3) Within sixty (60) days of submittal of the independent impact analysis, the City Administrator must provide written notice to the applicant as to whether the analysis is accepted or rejected based on the provisions of this section. If the independent impact analysis is rejected, the written notice must provide an explanation of the insufficiencies of the analysis.
- (4) The final decision of the City Administrator may be appealed to City Council. The filing of an appeal does not stay the imposition or the collection of the Impact Fee as calculated by the City Administrator unless a cash bond or other sufficient surety has been provided to the Finance Director. The Finance Director shall hold the bond or surety pending outcome of all available appeals. If the appeal is accompanied by a cash bond or other sufficient surety, in an amount equal to the Impact Fee calculated to be due, a zoning permit may be issued pending resolution of the final appeal.

(e) Reimbursements and Credits.

- (1) Eligibility for a reimbursement. The City may enter into a development agreement with an applicant, which provides for the reimbursement of Impact Fees in exchange for the dedication or construction of public facilities made necessary by a proposed new development. The City may reimburse Impact Fees already paid only for the type of facility dedicated or constructed by the applicant. Reimbursements must be made from the Impact Fee Fund. No Impact Fee may be reimbursed for a proffered public facility unless:
 - A. It is included in the City's capital and operating budgets, capital improvement plan, or the methodology report; or
 - B. It adds public facility capacity made necessary by and to be provided for the roughly proportionate benefit of new development.
- (2) Additional provisions.
 - A. In order to be eligible for a reimbursement, the applicant must receive approval by the City pursuant to the provisions of this chapter, prior to the issuance of a zoning permit.
 - B. The City shall not reimburse the applicant in an amount exceeding the amount of the Impact Fee due pursuant to this chapter.
 - C. The City shall not reimburse the applicant until a proffered land dedication is finalized or the construction project is at least fifty percent (50%) complete. Reimbursement may then occur based on the percent completion of the project on a pro rata basis.

- D. If an applicant proposes to dedicate or construct public facilities valued at an amount greater than the amount of the Impact Fee due, then the development agreement may provide for reimbursements to the applicant by future developers of costs incurred over and above those reimbursed by the City.
- (3) Procedures for reimbursements.
- A. Application made to the City Administrator. Applications for an agreement by the City to provide a reimbursement upon completion of certain work by the applicant must be made on a form provided by the City. The application must be accompanied by a proposed development agreement developed through coordination with City staff. Upon receipt of a complete application and proposed development agreement, the City Administrator and other appropriate staff and/or consultants must review the application and proposed development agreement, as well as such other information and evidence as may be deemed relevant. The City Administrator must forward a recommendation report stating whether a reimbursement is proper, based on the provisions of this chapter, to City Council. The City Administrator's recommendation report shall assume that upon completion of the work by the applicant as set forth within the proposed development agreement the same will comply in all material ways with the proposed development agreement and City standards.
- B. City Council. Based on the City Administrator's recommendation report, the provisions of this chapter, the capital improvement plan, comprehensive plan, adopted City budget, and the methodology report, City Council shall make a final decision to accept, reject, or accept with conditions the proposed reimbursement and proposed development agreement.
- C. Appeals. Appeals from the final decision of City Council shall be made to the Court of Common Pleas of Licking County. The filing of an appeal does not stay the imposition or the collection of the Impact Fee as calculated by the City Administrator unless a cash bond or other sufficient surety has been provided to the Finance Director. The Finance Director shall hold the bond or surety pending outcome of all available appeals. If the appeal is accompanied by a cash bond or other sufficient surety, in an amount equal to the Impact Fee calculated to be due, a zoning permit may be issued pending resolution of the final appeal.
- (4) Calculation of the value of dedication or construction. The amount of the reimbursement to be paid by the City is to be calculated as follows:
- A. Construction of facilities and provision of equipment. The reimbursement must be equal to the actual cost of construction or equipment as evidenced by receipts and other sufficient documentation or the amount of Impact Fees due pursuant to this chapter, whichever is less.

- B. Dedication of land. At the option of the applicant, the reimbursement is to be based on either the assessed value of the proffered land, based on the most recent County property appraisal, or the fair market value of the land as determined by a certified property appraiser hired and paid for by the applicant. If the latter option is chosen and the City rejects the applicant's appraisal, the City may hire and pay for a second appraiser to appraise the property. If either party rejects the second appraisal, a third appraisal may be performed by an appraiser chosen by the first and second appraisers, the costs of which are to be shared equally by the City and the applicant. The third appraisal is binding on both parties. All appraisals must be consistent with generally accepted appraisal techniques and the date of valuation must be the date of transfer to the City.
- (5) Development agreement requirements. No reimbursement may be made except pursuant to an executed development agreement between the City and the applicant, which must include, but is not necessarily limited to; the following:
- A. The estimated cost of the public facility to be constructed or dedicated, based on the provisions of this chapter;
 - B. A schedule for the initiation and completion of the construction of a public facility;
 - C. The amount of the Impact Fees to be reimbursed by the City to the applicant;
 - D. The schedule for making reimbursement payments to the applicant, based on the provisions of this section;
 - E. Provision for reimbursements to the applicant by future developers of costs incurred over and above those reimbursed by the City pursuant to this section;
 - F. The applicant's agreement to construct all public facilities in accordance with City specifications and all regulations set forth in the Codified Ordinances; and
 - G. Such other terms and conditions as deemed necessary by the City.
- (6) Transfer and assignment. The reimbursement may be paid only to the original applicant or the applicant's legal successor in interest with a contractual right to the reimbursement.
- (7) Eligibility for credits for excessive dedication or construction. An applicant may be given a credit against an Impact Fee upon demonstration that, after the date of this chapter, a public facility was dedicated or constructed by the applicant with sufficient excess capacity to offset the impacts of the applicant's proposed new development. In order for a credit to be accepted, the applicant must demonstrate the dedicated or constructed public facility will reduce the overall need for public facilities and the applicant has secured a contractual right to an allocation of the excess capacity equal to the total or any portion of the Impact Fee owed by the applicant. Any approved credit must be consistent with the adopted City budget, capital improvement plan, comprehensive plan, and the methodology report.

(8) Procedures for credits.

- A. Application made to the City Administrator. Applications for a credit must be made on a form provided by the City. The application must be accompanied by a development agreement executed after the effective date of this chapter, which demonstrates that excess public facility capacity has been provided by the applicant, which will provide a roughly proportionate benefit to the new development proposed by the applicant. Upon receipt of a complete application, the City Administrator and other appropriate staff and/or consultants must review the application, as well as such other information and evidence as may be deemed relevant. The City Administrator must forward a recommendation report stating whether a credit is proper, based on the provisions of this chapter, to City Council. The City Administrator's recommendation report shall assume that upon completion of the work by the applicant as set forth within the proposed development agreement the same will comply in all material ways with the proposed development agreement and City standards.
- B. City Council. Based on the City Administrator's recommendation report, the provisions of this chapter, the capital improvement plan, comprehensive plan, adopted City budget, and the methodology report, City Council must make a final decision to accept, reject, or accept with conditions the proposed credit and proposed development agreement.
- C. Appeals. Appeals from the final decision of City Council shall be made to the Court of Common Pleas of Licking County. The filing of an appeal does not stay the imposition or the collection of the Impact Fee as calculated by the City Administrator unless a cash bond or other sufficient surety has been provided to the Finance Director. The Finance Director shall hold the bond or surety pending outcome of all available appeals. If the appeal is accompanied by a cash bond or other sufficient surety, in an amount equal to the Impact Fee calculated to be due, a zoning permit may be issued pending resolution of the final appeal.

(f) Collection. The City must collect all Impact Fees and service charges in the amounts set forth in this chapter at the time of application for a zoning permit and must issue a receipt to the applicant for such payment unless:

- (1) The applicant is not subject to the payment of an Impact Fee; or
- (2) The applicant has filed an appeal and the appeal is accompanied by a cash bond or other sufficient surety, in an amount equal to the Impact Fee calculated to be due.

(Ord. 2021-4396. Passed 8-16-21.)

**1294.05 ESTABLISHMENT OF IMPACT FEE FUND; USE AND
APPROPRIATION OF IMPACT FEE PROCEEDS; AND REFUNDS.**

(a) Impact Fee Accounting. The Finance Director must establish an impact fee fund and all Impact Fees collected by the City must be deposited into such impact fee fund. All interest earned on monies deposited into the impact fee fund must be credited to that fund. The monies of such impact fee fund must be accounted for separately from all other City funds. The Finance Director must establish and implement necessary accounting controls to ensure the impact fee fund is properly deposited, accounted for, and appropriated in accordance with this chapter and other applicable legal requirements.

(b) Use of Impact Fee Funds.

- (1) Generally. All appropriations from impact fee funds must be approved by City Council and detailed on a form provided for such purposes and filed with the City Administrator.
- (2) Use of funds. Impact fee funds may be used only for
 - A. Public facility expenditures;
 - B. The payment of principal, interest, and other financing costs on contracts, bonds, notes, or other obligations issued by, or on behalf of, the City to finance public facilities;
 - C. Financing of refunds as set forth in Section 1294.06(d);
 - D. Financing of reimbursements as set forth in Section 1294.04(e); or
 - E. Financing the costs of updating this chapter.
- (3) Report. Consistent with Section 1294.06(c), prior to appropriating impact fee funds, the City Administrator must generate a written report which demonstrates such funds are being used to finance public facility capacity that provides or will provide benefits to new development that are roughly proportionate to the impact of that development. The report must be consistent with the methodology report. The written report must be presented to and accepted by City Council.
- (4) Restrictions on use. Impact Fees may not be appropriated for repair or maintenance of public facilities, or for operational or personnel expenses associated with the provision of public facilities. Additionally, Impact Fees must be appropriated:
 - A. For the particular public facility for which they were imposed, calculated, and collected; and
 - B. Within six (6) years of the beginning of the City's fiscal year immediately succeeding the date of collection, unless such time period is extended as provided in paragraph (b)(5), below.
- (5) Appropriation of impact fee funds beyond six (6) years of collection. Notwithstanding anything to the contrary, impact fee funds may be appropriated beyond six (6) years from the beginning of the City's fiscal year immediately succeeding the date of collection, if the appropriation is for a public facility that requires more than six years to plan, design, and construct. The City must document compliance with the provisions of this paragraph.

(c) Procedure for Appropriation of Impact Fee Funds.

- (1) Each year, City Council must identify public facility capacity anticipated to be funded, in whole or in part, with Impact Fees. Public facility expenditures must be consistent with the methodology report, the capital improvement plan, the comprehensive plan, and the annual review described in Section 1294.07 and such other information as may be relevant to ensure compliance with this chapter.
- (2) City Council may include public facilities funded with Impact Fees in the City's annual budget or capital improvements plan. If included, the description of the public facility must specify the nature of the public facility, the location of the public facility, the capacity to be added and/or funded by the appropriation, the service area of the public facility, the need/demand for the public facility, and the anticipated timing of completion of the public facility.
- (3) Consistent with the provisions of this chapter, City Council may authorize public facilities expenditures at such other times as it deems necessary.
- (4) City Council must verify that adequate impact fee funds are or will be available for the particular public facility capacity.
- (5) Because Impact Fees must be used in a location or manner that would provide benefit to the development supplying the funds, Impact Fees must be used in the order in which they were received related to that New Development.

(d) Refunds.

(1) Eligibility.

- A. Expiration or revocation of zoning permit. An applicant who has paid an Impact Fee for which construction has not begun, and the necessary zoning permit has expired or has been revoked, may apply for a refund. The refund application must be made on a form provided by the City.
- B. Failure of City to appropriate Impact Fees within time limit. An applicant may apply for a refund of Impact Fees if the City failed to appropriate the Impact Fees collected from the applicant within the time limit established in subsection (b)(4)(B) above, unless such time period is extended as provided in paragraph (b)(5) above. The refund application must be made on a form provided by the City.
- C. Abandonment of new development. An applicant, who paid an Impact Fee for which a zoning permit has been issued and pursuant to which construction has been initiated but abandoned prior to issuance of a certificate of occupancy, is eligible for a refund if the uncompleted building is completely demolished and the site is returned to the same or similar condition as before construction began.

- (2) Administrative fee. The City may deduct a five hundred dollar (\$500.00) administrative fee from the amount of any refund granted and retain the administrative fee to defray the administrative expenses associated with processing a refund application.

- (3) Processing of applications for a refund.
- A. Application made to the City Administrator. Applications for a refund must be made on a form provided by the City. Upon receipt of a complete refund application, the City Administrator must review the application and documentary evidence submitted by the applicant, as well as such other information and evidence as may be deemed relevant, and must forward a report as to whether a refund is due based on the provisions of this chapter to City Council.
 - B. City Council. Based on the report of the City Administrator, the provisions of this chapter, and the methodology report, City Council must make a final decision to approve, approve with conditions, or deny the proposed refund.
 - C. Appeals. Appeals from the final decision of City Council shall be made to the Court of Common Pleas of Licking County. The filing of an appeal does not stay the imposition or the collection of the Impact Fee as calculated by the City Administrator unless a cash bond or other sufficient surety has been provided to the Finance Director. The Finance Director shall hold the bond or surety pending outcome of all available appeals. If the appeal is accompanied by a cash bond or other sufficient surety, in an amount equal to the Impact Fee calculated to be due, a zoning permit may be issued pending resolution of the final appeal.
- (4) Refund because of expiration or revocation. Applications for refunds due to expiration or revocation of a zoning permit must be made on a form provided by the City and made within sixty (60) days following expiration or revocation of the zoning permit. In order for the refund application to be deemed complete, the applicant must submit: (a) evidence the person or entity applying for the refund was the initial applicant who paid the fee, or the authorized agent of the initial applicant; (b) the amount of the Impact Fees paid; and (c) documentation evidencing the expiration or revocation of the zoning permit. Failure to apply for a refund within sixty (60) days following expiration or revocation of the zoning permit constitutes a complete and full waiver of entitlement to any refund. No interest will be paid by the City when calculating the amount of a refund pursuant to this paragraph.
- (5) Refund because of the City's failure to timely appropriate. Applications for refunds due to the failure of the City to timely appropriate Impact Fees must be made on a form provided by the City and made within one year following the expiration of such time limit. In order for the refund application to be deemed complete, the applicant must submit: (a) evidence the applicant is the current property owner or the authorized agent of the current property owner and (b) the amount of the Impact Fees paid; and (c) description and documentation of the City's failure to appropriate impact fee funds pursuant to subsection (b)(2) above. Interest must be paid by the City in calculating the amount of the refunds pursuant to this section.

- (6) Refund because of abandonment. Applications for refunds due to abandonment of a new development prior to completion must be on a form provided by the City. Failure to apply for a refund within sixty (60) days following demolition of the structure constitutes a waiver of entitlement to a refund. No interest will be paid by the City in calculating the amount of the refund pursuant to this paragraph. The application must include: (a) evidence the person applying for the refund is the initial applicant who paid the fee, or the authorized agent of the initial applicant; (b) the amount of the Impact Fees paid; and (c) documentation evidencing the demolition of the building partially constructed pursuant to payment of the impact fees to be refunded. (Ord. 2021-4396. Passed 8-16-21.)

1294.06 REVIEW AND ADJUSTMENTS.

(a) Review.

- (1) The City Administrator, in coordination with all relevant and necessary City staff, must prepare and submit an annual report to City Council on the subject of Impact Fees.
- (2) The report may include any or all of the following:
 - A. Recommendations for amendments, if appropriate, to this chapter;
 - B. Proposed changes to the City Comprehensive Plan and/or an applicable ordinance or policy, including the identification of additional public facility projects anticipated to be funded wholly or partially with Impact Fees;
 - C. Creation of impact fee districts, as necessary;
 - D. Proposed changes to the impact fee schedule as set forth in the ordinances imposing and setting impact fees for particular public facilities;
 - E. Proposed changes to level of service standards for particular public facilities;
 - F. Proposed changes to any impact fee calculation methodology;
 - G. Proposed changes to the population, housing, land use, persons per household or nonresidential development projections included in the methodology report and upon which the impact fee amounts have been determined; or
 - H. Other data, analysis, or recommendations as the City Administrator may deem appropriate, or as may be requested by the City Council.
- (3) The report must include the following background data:
 - A. Number of zoning permits issued by type development in each Category (Primary and Sub-Category) listed in the Impact Fee Schedule;
 - B. Gross floor area of new nonresidential development, by type;
 - C. Total amount of Impact Fees collected, by type of development in each Category (Primary and Sub-Category) listed in the Impact Fee Schedule;
 - D. Total expenditures made from impact fee fund and the purpose for which the expenditure was made, i.e., the description, type, and location of the public facility project;
 - E. When the public facility project was, or will be, initiated and completed;

- F. Whether additional impact fee funds will be appropriated for the same project in the future;
 - G. Whether supplemental non-impact fee funds have been used for the project and, if so, how much;
 - H. The service area of the public facility project;
 - I. The total estimated cost of the project and the portion funded with impact fees;
 - J. Whether the public facility project is in the City's current annual budget, capital improvements plan, or comprehensive plan;
 - K. The estimated useful life of the project; and
 - L. Such other facts as may be deemed relevant by the City Administrator or City Council.
- (4) City Council action. After reviewing the report identified herein, City Council may take such actions as it deems appropriate, including but not limited to, amending this chapter, requesting additional data or analyses, and holding public workshops and/or public hearings.
(Ord. 2021-4396. Passed 8-16-21.)

1294.07 STREET IMPACT FEE.

(a) Impact Fee for Residential Development. All new residential development within the City is subject to the payment of a street impact fee payable at the time of zoning permit issuance by the City, pursuant to this chapter as follows:

| Category | Impact Fee per Dwelling Unit |
|----------------------------|------------------------------|
| Single-Family/Multi-Family | \$1,140.84 |

(b) Impact Fee for Nonresidential Development. All new nonresidential development within the City is subject to the payment of a street impact fee payable at the time of zoning permit issuance by the City, pursuant to this chapter as follows:

| Category | Impact Fee per Square Foot |
|------------------------------|----------------------------|
| Retail/Restaurant | \$2.46 |
| Office/Institutional | \$1.43 |
| Light Industrial/Warehousing | \$0.64 |
| Manufacturing | \$0.51 |

(Ord. 2021-4396. Passed 8-16-21.)

