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.

The reader hereof will TAKE NOTICE that the within regulations are subject to change by appropriate legal process and (due to the public nature of these locations) unauthorized interlineations, destruction, or alterations.

Prior to relying thereon, persons are therefore encouraged and advised to verify the effectiveness and accuracy of these contents by contacting the Clerk of Council or such other governmental agency as may be appropriate. Pataskala's administrative offices are located at 196 E. Broad Street, Pataskala, Ohio 43062; 740/927-2021.

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

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CITY OF PATASKALA, OHIO

ROSTER OF OFFICIALS

(2021)

COUNCIL

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Second Ward, Vice President

Third Ward, President

Fourth Ward

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Michael W. Compton Timothy Hickin Brian M. Zets James M. Nicholson Bruce Brooks Alan Haines Chris Sharrock Scott Fulton Kathy M. Hoskinson

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City Administrator Law Director Finance Director Chief of Police

Director of Public Services Director of Utility Services Director of Planning

Director of Planni 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.

ORDINANCE NO. <u>2000-3331</u>

AN ORDINANCE TO ADOPT THE 2000 CODIFIED ORDINANCES.

WHEREAS, a determination has been made that the ordinances of the City of a permanent and general nature should be codified, and

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

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codification of such ordinances, together with the new matter to be adopted, the matters to be amended and those to be repealed are before the Council,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PATASKALA, COUNTY OF LICKING, STATE OF OHIO, A MAJORITY OF MEMBERS CONCURRING:

<u>SECTION 1:</u> That the ordinances of the City of Pataskala, Ohio, of a general and permanent nature, as revised, codified, rearranged and consolidated into component codes, titles, chapters and sections are hereby approved, adopted and enacted as the Codified Ordinances of the City of Pataskala, Ohio, 2000.

SECTION 2: That the provisions of this Ordinance, including all provisions of the Codified Ordinances, shall be in full force and effect as provided in Section 6 of this Ordinance. All ordinances and resolutions or parts thereof enacted prior to January 1, 2000, which are inconsistent with any provision of the Codified Ordinances, are hereby repealed as of the effective date of this Ordinance, except as follows: the enactment of the Codified Ordinances shall not be construed to affect a right or liability accrued or incurred under any legislative provisions prior to the effective date of such enactment, or an action or proceeding for the enforcement of such right or liability. Such enactment shall not be construed to relieve any person from punishment for an act committed in violation of any such legislative provision, nor to affect an indictment, or prosecution therefor. For such purposes, any such legislative provision shall continue in full force notwithstanding its repeal for the purpose of revision and codification.

SECTION 3: That the Clerk of Council shall cause a notice of the proposed adoption of this Ordinance to be published one time in a newspaper of circulation in the City at least seven days prior to Council's action as required by Section 4.13 of the Charter.

<u>SECTION 4:</u> That each section of the Codified Ordinances without an ordinance or resolution history at the end thereof indicates that the section contains new material which is hereby enacted by this Adopting Ordinance.

SECTION 5: That through authentication and approval of this Ordinance the Mayor and Clerk of Council shall certify that the permanent and general ordinances of the Municipality as codified therein are correctly set forth and constitute the Codified Ordinances of Pataskala, Ohio, 2000.

<u>SECTION 6:</u> That this Ordinance shall become effective immediately upon approval thereof by a majority vote of the members of Council.

ATTEST:		
/s/ Kathy M. Hoskinson Clerk of Council Approved as to form:	/s/ Bruce J. Baird Mayor	
/s/ William C. Hayes Law Director		

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EDITOR'S NOTE

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

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

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

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

GENERAL INDEX

EDITOR'S NOTE: References are to individual code sections. As

- additional aids for locating material, users are directed to:

 (a) The comparative Section Table which indicates in the Codified Ordinances the disposition of the ordinances or resolutions integrated therein.
- The table of contents preceding each component code, and the sectional analysis preceding each chapter.

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CHARTER

OF

PATASKALA, OHIO

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CHARTER

OF

PATASKALA, OHIO

PREAMBLE

In order that we may have the benefits of municipal home rule and exercise all of the powers of local self-government conferred under the Constitution and Statutes of the State of Ohio, We, the citizens of the City of Pataskala, Ohio, do hereby adopt this Charter for our municipality.

ARTICLE I NAME; BOUNDARIES; FORM OF GOVERNMENT

SECTION 1.01 NAME AND BOUNDARY.

The municipal corporation existing as the City of Pataskala shall continue to be a body politic and corporate under this Charter. The Municipality shall have the same boundaries that exist on the effective date of this Charter and as established thereafter, with power and authority to change its boundaries and annex territory in the manner authorized by the laws of Ohio. (Amended 11-8-05.)

SECTION 1.02 FORM OF GOVERNMENT.

The municipal government provided for by this Charter shall be known as the "Mayor, Council, Administrator Plan."

ARTICLE II CORPORATE POWERS

SECTION 2.01 POWERS GRANTED.

The City shall have all the powers that may now or hereafter lawfully be possessed or exercised by municipal corporations under the Constitution and laws of Ohio. Title to all real property shall be taken in the name of the municipality.

SECTION 2.02 EXERCISE OF POWERS.

All powers shall be exercised in the manner prescribed in this Charter, or if not so prescribed, in the manner provided by ordinance or resolution of Council. When not prescribed in this Charter or by ordinance or resolution, then the powers shall be exercised in the manner provided by the laws of Ohio until Council provides a different manner of exercising the powers.

SECTION 2.03 CONSTRUCTION OF POWERS.

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general powers stated in this Article.

SECTION 2.04 INTERGOVERNMENTAL COOPERATION.

- (A) In carrying out any lawful function or power of the municipality, the Council may, by a majority vote of its members, authorize the execution of contracts or in any other manner provide for cooperation or joint action, between the municipality and:
 - (1) Political Subdivisions, special districts, instrumentalities, or other units of government of the State of Ohio or other states.
 - The State of Ohio, its officers, departments, divisions, instrumentalities or other units or agencies.
 - Other states, their officers, departments, divisions, instrumentalities, or other units or agencies.
 - (4) The federal government, its officers, departments, divisions, instrumentalities or other units or agencies.
 - (5) Councils of governments or other instrumentalities consisting of other political subdivisions, special districts, instrumentalities or other governmental units or agencies allowed under the laws of Ohio, other states or the federal government.
 - (6) Persons, corporations whether for profit or non-profit, firms and other entities; unless such contracts, cooperation or joint actions are prohibited by the Constitution of the State of Ohio.
- (B) The powers granted by this section shall be liberally construed to authorize and encourage intergovernmental cooperation, but shall not authorize the avoidance of the provisions of this Charter concerning taxation or initiative or referendum. (Amended 11-8-16)

ARTICLE III COUNCIL

SECTION 3.01 POWERS OF COUNCIL.

- (A) All legislative power of the City shall be vested in the Council, except as otherwise provided by this Charter and the Constitution of the State of Ohio. Without limitation of the foregoing, the Council shall have and possess the following powers:
 - (1) The power to levy taxes and assessments and incur debts subject to the limitations imposed thereon by this Charter and the Constitution of Ohio.
 - (2) The power to adopt and to provide for the enforcement of local police, sanitary and other similar regulations as are not in conflict with the general laws.

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- (3) The power to provide for the exercise of all powers of local self-government granted to the City by the Constitution of the State of Ohio in a manner not inconsistent with this Charter or the Constitution of the State of Ohio.
- (4) The power, by ordinance or resolution, to establish or authorize the number of officers and employees in the various offices, departments, divisions, bureaus, boards and commissions of the City and to establish or authorize the establishment of the rate of their compensation, hours of work, and to provide such other fringe benefits and conditions of employment as deemed proper by the Council.
- (5) The power to require such bonds as in the opinion of the Council are necessary for the faithful discharge of the duties of the officers and employees of the City. The premium for said bonds shall be paid by the City.
- (6) The power to create, combine, change and abolish other offices, departments, divisions, bureaus, boards and commissions. The power herein expressed in this sub-section shall be exercised by ordinance or resolution.
- (7) The power to establish, by ordinance or resolution, the rates or charges made of consumers of all municipal utilities and services.
- (8) The power to acquire and to sell or otherwise convey interests in real property; and to lease, as lessor or lessee, or otherwise grant or receive interests in real property, in the manner authorized by ordinance or resolution.
- (9) The power to provide for an independent audit of the accounts and records of the City, which may be in addition to audits by state offices and agencies as may be required under the general laws of Ohio.
- (10) To exercise all other powers granted to the Council by this Charter and by the Constitution and laws of the State of Ohio.

SECTION 3.02 COMPOSITION, TERM AND QUALIFICATIONS.

(A) The Council shall be composed of seven (7) members. Four members of Council shall be elected from wards. Three members of the Council shall be elected at large. Members of Council shall serve four year terms each. The three members of Council elected at large shall serve four-year overlapping terms with the four members of Council elected from wards. The terms of members of Council shall commence on the first day of January following their election.

(B) Candidates for Council shall have been electors* of the City or any area annexed to the City for at least two years immediately prior to the time they file for office and remain so qualified during their term of office. Members of Council shall not hold any other public office or employment with the City during a term, except they may hold office in a political party or be a delegate to a political party convention, serve as a notary public, serve as a member or officer in the military reserve or national guard, serve in any office, position or capacity to represent the municipality or to further intergovernmental cooperation, and may hold any office permitted by the Charter or the laws of Ohio. (Amended 11-8-16)

SECTION 3.03 WARDS AND BOUNDARIES.

- (A) Upon the availability of decennial census information from the federal government, the Council at the next regular Council meeting shall appoint a Commission consisting of seven (7) members who are electors of the City during their term in office to divide or redivide the City into four wards for the purpose of electing four ward Council members at the next regular municipal election. The Commission shall take action by a majority vote of its members and report its recommendations to Council within six months. The division or redivision of the City into four wards shall provide for substantially equal population in each ward. The Council and Mayor shall take all actions necessary to implement the actions of the Commission.
- (B) In addition to the redivision of the City into wards as required by Division (A) of this Section, the Council may, appoint a seven member commission, as described in Section 3.03(A) to redivide the City into four wards at any other time in order to provide substantially equal population in each ward.
- (C) All wards shall be bounded, as far as practical, by county lines, streets, alleys, avenues, public grounds, canals, watercourses, municipal boundary lines, center lines of platted streets or railroads, or lot lines of platted subdivisions. Redivision of the City into wards shall not terminate or otherwise affect the unexpired terms of Ward Council members; however, at succeeding elections, Ward Council members shall be elected from the wards, as reapportioned or re-established under this Section.
- (D) Council shall have the power to cause a census of the City to be taken if it determines a census is necessary for the proper apportionment of the City's wards. The Council may authorize officials and employees of the City, independent contractors or state or federal government agencies to conduct the census under the control and direction of the Council. (Amended 11-8-16)

SECTION 3.04 CLERK OF COUNCIL.

The Council shall appoint, by a majority vote of its members, a person to serve as the Clerk of Council. The Clerk of Council shall serve at the pleasure of the Council and may be suspended or removed without cause by a majority vote of the members of Council. The Clerk of Council may hold other office or position of employment in the City. The Clerk of Council shall have those powers, duties and functions as are provided in this Charter, by the Rules of Council or by ordinance or resolution. Included in the duties of the Clerk of Council shall be the maintenance of a record of proceedings of the Council and a record of all ordinances and resolutions adopted by the Council. The Clerk of Council shall give notice of regular and special meetings of the Council to its members and to the public as may be provided by this Charter, the Rules of Council or by ordinance or resolution. The Clerk of Council shall be subject to the control of the officers of the Council and the general supervision of the City Administrator. The Council, by ordinance or resolution, may require the Clerk of Council to serve as the secretary of one or more boards and commissions provided for under this Charter.

* "Elector" as used in this Charter is defined as "a person having the qualifications provided by law to be entitled to vote" pursuant to Ohio Revised Code Section 3501.01(N). (Amended 11-18-16)

SECTION 3.05 COUNCIL MEETINGS.

(A) The Council shall determine, by a majority vote of its members, the frequency, dates and times of regular meetings in order to properly conduct its business, but it shall hold at least one regular meeting in each month in at least eleven months of each year.

(B) Special meetings of the Council may be called, for any purpose, by the Mayor or any three members of the Council upon at least twenty-four hours notice to the Mayor and each member of the Council, which notice may be served personally left at the usual place of residence, or by electronic notification. In the event the Mayor or any three members of the Council

determine an emergency exists, the twenty-four hour notice shall not apply.

Members of the Council and the Mayor who attend special meetings of the Council or who are present at another regular or special meeting where a special meeting is announced by the presiding officer need not receive notice of the special meeting. Members of the Council and the Mayor may waive receipt of notice of a special meeting either prior or subsequent to the meeting. Special meetings may be cancelled beforehand by whomever initially called for such special meeting.

- (C) Any regular or special meeting of the Council may be adjourned or recessed to another time, date or place without giving the notice required in Division (B) of this Section.
- (D) All meetings of the Council and of other boards and commissions of the City shall be held in accordance with the general laws of Ohio pertaining to requirements for open meetings of public bodies. (Amended 11-8-16)

SECTION 3.06 COUNCIL ORGANIZATION AND RULES.

The Council shall be a continuing body, but shall meet in the Council Chamber at its first meeting in January of each year for the purpose of organization. Council shall adopt, by a majority vote of its members, its own Rules which shall not conflict with this Charter and which shall remain in effect until amended, changed or repealed by a majority vote of its members. The Rules shall go into immediate effect unless a later date is specified, and shall not be subject to initiative or referendum. The Rules of Council shall provide for the number, composition and manner of appointment of committees of Council, and such other matters as Council shall determine to be necessary for the proper functioning and government of Council. (Amended 11-8-16)

SECTION 3.07 SALARIES OF ELECTED OFFICIALS.

The salaries of all elected officials of the City shall be established by Council by ordinance or resolution to be adopted no later than the last date of filing for election in each odd numbered year which precedes a regular municipal election at which members of the Council are to be elected. The salaries so established shall not be changed to be effective during the current term of office. In the event Council shall fail to establish salaries as required in this Section, the salaries in effect for the prior term shall remain in effect until changed in accordance with this Section. (Amended 11-8-05.)

SECTION 3.08 COUNCIL VACANCIES.

- (A) A vacancy in the Council shall be filled by the affirmative vote of a majority of the remaining members of the Council. If the vacancy occurs subsequent to twenty days before the date when candidates for the office of Council member must file their nominating petitions or if two years or less remain in the term of the incumbent who created the vacancy, the person elected by the Council shall serve for the unexpired term. If the vacancy occurs at least twenty days prior to the date when candidates for the office of Council member must file their nominating petitions and more than two years remain in the term of the incumbent who created the vacancy, the person elected by the Council shall serve until a successor is elected at the next regular municipal election and qualified to serve for the remainder of the unexpired term. The person elected for the unexpired term at the next regular municipal election shall take office on the first day of January following their election. (Amended 11-8-16)
- (B) If the Council shall fail to elect a person to fill a vacancy in the Council under Division (A) of this Section within sixty days after the occurrence of the vacancy, its power to do so shall lapse and the Mayor shall appoint a person to serve for the time as provided in Division (A) of this Section.

ARTICLE IV LEGISLATIVE PROCEDURE

SECTION 4.01 FORM OF ACTION BY COUNCIL.

Action of Council shall be by ordinance, resolution or motion.

Every action of a general and permanent nature, or granting a franchise, or authorizing a development plan; or levying a tax; or appropriating money; or contracting an indebtedness, to be evidenced by the issuance of bonds or notes; or for the purchase, lease or transfer of public property; or establishing an offense and fixing the penalty therefore shall be taken by ordinance, in the manner hereinafter provided. All other action may be by resolution.

Action by Council which is not required by this Charter to be taken by ordinance, or which is not of general public application or interest, may be taken by resolution. Such a resolution shall be introduced by a member of Council and may be adopted by a voice vote of a majority of the members present. If adopted it shall be assigned a resolution number and reduced to writing. No waiting period, notice, hearing or publication shall be required, and a resolution shall become effective upon its adoption. The Clerk of Council shall record resolutions by number, at length, in a separate book, which shall be a public record.

Motion shall be used to conduct the business of Council, in procedural matters, for elections conducted among and appointments made by Council members, to provide directions to and to make requests of administrative officers and employees and Members of Boards and Commissions, and as otherwise provided in this Charter. All other action shall be taken by ordinance or resolution. No action of Council shall be invalidated merely because the form thereof fails to comply with the provisions of this Section. (Amended 11-6-07.)

SECTION 4.02 INTRODUCTION OF ORDINANCES AND RESOLUTIONS.

Any member of Council may introduce any ordinance or resolution, at a regular or special meeting. Ordinances shall be in written or printed form when introduced and shall contain a concise title. (Amended 11-6-07.)

SECTION 4.03 FORM OF ORDINANCES AND RESOLUTIONS.

(A) The form and style of ordinances and resolutions shall be determined by the Rules of Council.

(B) Each ordinance or resolution shall contain only one subject, which shall be expressed in its title; provided that appropriation ordinances may contain the various subjects, accounts and amounts for which monies are appropriated, and that ordinances and resolutions which are codified or recodified are not subject to the limitation of containing one subject. (Amended 11-6-07.)

SECTION 4.04 READING ORDINANCES AND RESOLUTIONS.

Each ordinance shall be read by title only on three separate days, unless this requirement is dispensed with by the affirmative vote of at least two-thirds of the members of the Council. Readings shall be by title only, unless any member of the Council shall request that any ordinance be read in full. Copies of each ordinance shall be available for public inspection at the meetings of the Council at which the ordinance is considered. Resolutions not in written form when introduced shall be available for public inspection once reduced to written form. (Amended 11-8-11.)

SECTION 4.05 VOTE REQUIRED FOR PASSAGE.

The vote on the question of passage of each ordinance, resolution and motion shall be taken by a roll call of members to be entered on the Journal, or other record of proceedings of the Council. The adoption of an Ordinance requires the affirmative vote of a majority of the members of Council as set forth in this Charter. The adoption of Resolutions or Motions requires only the majority vote of the quorum in attendance and voting on such matters. In consideration whether a matter Resolution or Motion has received a majority vote, an abstention is considered to be an acquiescence in the action taken by the majority of those who do vote. (Amended 11-8-11.)

SECTION 4.06 CONTENT OF EMERGENCY LEGISLATION.

Each emergency ordinance shall determine that the ordinance is necessary for the immediate preservation of the public peace, health, safety or welfare, and shall contain a statement of the necessity for the emergency. Zoning ordinances or resolutions shall not be adopted as emergency measures. (Amended 11-6-07.)

SECTION 4.07 EFFECTIVE DATE OF LEGISLATION.

- (A) The following ordinances shall take effect upon passage unless a later time is specified therein:
 - (1) Appropriation of money.
 - (2) An annual tax levy for current expenses.
 - (3) Improvements petitioned for by owners of a majority of the front footage or of the area of the property benefitted and to be assessed.
 - (4) Submission of any question to the electorate or the determination to proceed with an election.
 - (5) Approval of a revision, codification, recodification, or rearrangement of ordinances.
 - (6) Any emergency ordinance.
- (B) All other ordinances shall go into effect thirty days after their passage by the Council. Resolutions shall go into effect upon adoption. (Amended 11-6-07.)

SECTION 4.08 AUTHENTICATION.

Each ordinance and resolution shall be authenticated by the signature of a presiding officer of the Council and the Clerk of Council. The failure or refusal to sign shall not invalidate an otherwise properly enacted ordinance or resolution. (Amended 11-6-07.)

SECTION 4.09 RECORDING LEGISLATION.

Each ordinance and resolution shall be recorded in a book or other record prescribed by Council. The Clerk of Council or a duly authorized representative of the Clerk shall, upon request of any person and upon the payment of a fee, if established by Council, certify true copies of any ordinance or resolution, which copies shall be admissible as evidence in any court. (Amended 11-6-07.)

SECTION 4.10 AMENDMENT.

- (A) A pending ordinance or resolution may be amended at any time prior to its passage by the Council by a majority vote of the members of the Council present and voting on the amendment. An amendment of an ordinance shall not require additional readings unless amended during the final reading. A reading, or readings, as necessary, in addition to the readings prescribed in Section 4.04 of this Charter shall be permitted and required unless the pending ordinance is deemed to comply with Section 4.06.
- (B) Any ordinance or resolution, or codified ordinances or resolutions of the City, may be amended by the passage of subsequent ordinances or resolutions that: revise existing sections or parts thereof; enact new or supplemental sections or parts thereto; or repeal existing sections or parts thereof. This Division (B) of this Section does not prevent repeals by implication. (Amended 11-8-16)

SECTION 4.11 ZONING MEASURES.

- (A) Ordinances establishing, amending, revising, changing or repealing zoning classifications, districts, uses or regulations may be initiated by a member of Council or as otherwise provided by ordinance. The Council shall determine, by ordinance, all procedures to be followed by the Council and the Planning and Zoning Commission with respect to zoning within the City and other land use regulations and matters, including but not limited to: public hearings; notices to owners of land; and notices to the general public.
- (B) A concurring vote of at least two-thirds of the membership of Council shall be necessary to pass any zoning ordinance which differs from the written recommendations of the Planning and Zoning Commission, but in no event shall an ordinance be considered as having passed unless it receives at least an affirmative vote by a majority of the members of Council. (Amended 11-8-16)

SECTION 4.12 ADOPTION OF TECHNICAL CODES.

- (A) Council may, by ordinance or resolution, adopt standard ordinances and codes prepared by the State or any department, board or other agency or subdivision of the State, or any standard or model ordinance or code prepared and promulgated by a public or private organization, including but not limited to codes and regulations pertaining to fire, fire hazards, fire prevention, plumbing, heating, electrical, ventilation, air conditioning, refrigeration machinery, state pressure piping, piping, boilers, buildings standards, housing standards, and such other matters as the Council may determine to be appropriate for adoption by reference, by incorporation by reference.
- (B) The ordinance or resolution adopting any such standard ordinance or code shall make reference to the date and soruce of such standard ordinance or code without reproducing the same at length in the ordinance or resolution. In such cases, publication of the standard ordinance or code shall not be required, but copies of such code shall be available for review by interested persons with the Clerk of Council. Such access can be provided by posting on the City's website,

but access must be provided in the office of the Clerk of Council during normal business hours. If the standard ordinance or code is amended after its adoption by reference by the Council, the Council may adopt the amendment or change by incorporation by reference under the same procedure as is established herein for the adoption of the original standard ordinance or code. (Amended 11-8-16.)

SECTION 4.13 CODIFICATION.

By a majority vote of the members of Council, the Council may cause the ordinances and resolutions of the City to be revised, codified, recodified, rearranged, or published in book form, and such action shall become effective immediately upon approval thereof by a majority vote of the members of Council and may contain new matter therein.

The Clerk of Council shall cause a notice of such proposed action by the Council to be published one time pursuant to Council rule, at least seven days prior to Council's action, and no further publication shall be necessary. Copies of actions of Council shall be maintained and available for review in the office of the Clerk of Council. A current service supplementing the City's codified ordinances and resolutions shall be maintained in the manner prescribed by the Council. The Director of Law shall exercise due diligence over the codification process. (Amended 11-8-16)

SECTION 4.14 PUBLICATIONS OF ORDINANCES AND RESOLUTIONS.

- (A) Each ordinance or resolution shall be published by causing a brief summary by number and title, noticed within the City once a week for two consecutive weeks. Council may satisfy publication by electronic means on the City's website with a conspicuous identification. Full-text copies of actions of Council shall be maintained and available for review in the office of the Clerk of Council.
- (B) Failure to publish, as required by Division (A) of this Section shall not invalidate an ordinance or resolution, and in such events, the Clerk of Council may authorize publication pursuant to Division (A) of this Section, at a later date. (Amended 11-8-16)

ARTICLE V MAYOR - ADMINISTRATOR

SECTION 5.01 THE MAYOR.

- (A) The Mayor shall be elected for a term of office of four years, commencing on the first day of January following the election, with all the powers, duties and function provided by this Charter. Candidates for the office of Mayor shall be electors of the City or an area annexed to the City for at least two (2) years immediately prior to the time of filing for office, and if elected, shall remain so qualified during the term of office.
- (B) The Mayor shall not hold any other public office or employment with the City during a term; except that the Mayor may hold an office in a political party, or be a delegate to a political party convention, serve as a notary public, serve as a member or officer in the military reserve or national guard, serve in any office, position or capacity to represent the City or to further intergovernmental cooperation, and may hold any office permitted by the Charter or the laws of Ohio. (Amended 11-8-16)

SECTION 5.02 POWERS OF MAYOR.

(A) The Mayor shall preside at all meetings of the Council but shall not vote except that the Mayor may vote on any matter, other than the appointment or removal or suspension of any person appointed, suspended, or removed by the Mayor, in the event of a tie vote among the members of the Council. The Mayor shall have the right to convene a Mayor's Court and appoint a Magistrate to preside over its proceedings after obtaining confirmation by Council by a majority

vote of its members. The Magistrate serves at the pleasure of the Mayor and can be suspended or removed from office without cause either by the Mayor or by the Council by a two-thirds (2/3) vote of its members without the consent of the Mayor. The Mayor shall have those judicial and military powers, if any, as may be granted by the general laws of Ohio, and shall be permitted to perform marriages as allowed by the general laws of Ohio, shall have ceremonial powers on behalf of the City and shall have such other powers, duties and functions as provided under this Charter and the City's ordinances and resolutions. The Mayor shall not have any power to veto ordinances or resolutions or motions passed by the Council.

(B) At its organizational meeting in each year the Council shall elect from among its members a president pro-tempore and a vice-president pro-tempore by a majority vote of its members. The president pro-tempore of the Council shall exercise the powers, duties and functions of the Mayor in case of a vacancy in the office of Mayor or in the event of the absence or disability of the Mayor; and in the event that the Mayor and the president pro-tempore of the Council are absent or disabled, or their offices are vacant, the vice-president pro-tempore shall exercise the powers, duties and functions of the Mayor.

The president and vice-president pro-tempore may vote on any matter before the Council while acting as Mayor, but may not vote a second time on any matter in order to break a tie vote.

In the event of the scheduled absence of the Mayor, the president and vice-president of Council, the Mayor shall select from Council a member to exercise the powers, duties and functions of Mayor until such time as the Mayor, president or vice-president of Council can assume such responsibilities. In the event of the unscheduled absence of the Mayor, the President and vice-president of Council, the Director of Law shall assume the duties and functions of Mayor until such time as the Mayor, president or vice-president of Council can assume the duties and responsibilities of Mayor. (Amended 11-8-16)

SECTION 5.03 MAYORAL VACANCIES.

- (A) In the event of a vacancy occurring in the office of Mayor for more than thirty (30) days, Council shall fill such office by the affirmative vote of a majority of the members of Council within thirty (30) days thereafter by electing a qualified resident to fill the remaining term of the Mayor if two (2) years or less remain in said Mayor's term at the time of Council's appointment. If the vacancy occurs at least twenty (20) days prior to the date when candidates to the office of Mayor must file their nominating petitions and more than two (2) years remain the term of the Mayor, the person elected by the Council shall serve until a successor is elected at the next regular municipal election and qualified to serve for the remainder of the unexpired term. The person elected for the unexpired term at the next regular municipal election shall take office on the first day of January following his or her election.
- (B) If the Council shall fail to elect a person to fill a vacancy in the office of Mayor under Division (A) of this Section within sixty (60) days after the occurrence of the vacancy, its power to do so shall lapse and the President of Council shall appoint a person to serve for the time provided in Division (A) of this Section. (Enacted 11-8-16)

SECTION 5.04 CITY ADMINISTRATOR.

(A) The Mayor shall appoint a City Administrator who shall take office upon confirmation by the Council by a majority vote of its members. The City Administrator shall serve at the pleasure of the Mayor and the Council and may be suspended or removed from office without cause by the Mayor with the consent of the Council granted by a majority vote of its members, or by the Council by a two-thirds (2/3) vote without the consent of the Mayor.

- (B) The Mayor and the Council shall deal with the officers and employees who are subordinate to the City Administrator only through the City Administrator; except that the Mayor or the Council may require the City Administrator or his or her subordinate officers or employees to meet to provide information, answer questions or provide oral or other evidence (sworn or unsworn) before the Council or any committee appointed by the Council. The Mayor and Council may deal directly with all other officers and employees of the City.
- (C) The City Administrator shall appoint an employee or official of the City as the Acting City Administrator in the event of a vacancy in that office or upon the absence or disability of the City Administrator. Council may appoint such Acting Administrator if the City Administrator fails to make the appointment within four days upon an actual vacancy or an absence or disability. The Council may require the Mayor to make an appointment forthwith of a City Administrator if that office has been vacant for thirty days. The Acting City Administrator shall have the powers, duties and functions of the City Administrator.
- (D) The City Administrator shall be appointed on the basis of his or her education and/or administrative and executive skill and experience in the arena of public management; or based upon his or her knowledge of the operations of municipal government. The Mayor and Council shall be the sole judge of the qualifications of the City Administrator.
- (E) The City Administrator may not hold any other office or position with the City, unless the Council approves by a two-thirds (2/3) vote of its members. (Amended 11-8-16)

SECTION 5.05 POWERS OF CITY ADMINISTRATOR.

- (A) The City Administrator shall be the chief executive and administrative officer of the City. He or she shall be responsible to and subject to the control, supervision and direction of the Mayor and acts of Council for the administration of all municipal affairs placed in the City Administrator's charge by or under this Charter, the ordinances or resolutions of the City and the state laws.
 - (B) The City Administrator shall have the following powers, duties and functions to:
 - (1) Appoint, promote and, when he or she deems it necessary for the good of the service, suspend or remove or otherwise discipline all subordinate employees and appointive administrative officers, except as otherwise provided by this Charter, subject to the provisions of this Charter pertaining to the Merit System.
 - (2) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter.
 - (3) Attend all Council meetings and shall have the right to take part in discussions but may not vote.
 - (4) See that all laws, provisions of this Charter and ordinances and resolutions of the Council, subject to enforcement by the City Administrator or by officers subject to his or her direction and supervision, are faithfully executed.
 - (5) Prepare and submit the annual budget and capital program to the Council.
 - (6) Submit to Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.
 - (7) Make such other reports as the Council may require concerning the operations of municipal departments, offices, boards, commissions and agencies subject to his or her direction and supervision.

- (8) Keep the Council fully advised as to the financial condition and future operating and capital needs of the City and make such recommendations to the Council concerning the affairs of the City as he or she deems desirable.
- (9) Require reports and information of subordinate officers and employees of the City as he or she deems necessary in the orderly operation of the City, or when requested to do so by the Council or any board or commission of the City.
- (10) Execute on behalf of the City all contracts and agreements, except as otherwise provided in this Charter.
- (11) Affix to official documents and instruments of the City the City Administrator's Seal, which shall be the seal of the City, but the absence of the seal shall not affect the validity of any such document or instrument.
- (12) Perform such other powers, duties and functions as are conferred or required by this Charter, by any ordinance or resolution of the Council, or by the general laws of the State of Ohio.
- (C) The City Administrator shall provide staff support to the Mayor through his or her office or independent from his or her office as determined by the Mayor. The City Administrator, when requested by the Mayor or Clerk of Council on behalf of the Council shall provide additional staff support to the Council and/or the Clerk of Council.
- (D) The City Administrator or his or her designated representative may attend meetings of the Planning and Zoning Commission and the Board of Zoning Appeals with the right to participate at meetings and in discussions, but the City Administrator or his or her designated representative shall not vote on any matter before the Commission. (Amended 11-8-16)

ARTICLE VI ADMINISTRATIVE DEPARTMENTS

SECTION 6.01 DIRECTOR OF LAW.

- (A) The Director of Law shall be under the supervision, direction and control of both the Mayor and Council, who shall be appointed by the Mayor and confirmed by Council by a majority vote of its members. The Director of Law shall serve at the pleasure of the Mayor and Council and may be suspended or removed from office without cause by the Mayor with the consent of the Council granted by a majority vote of its members, or by the Council by a two-thirds (2/3) vote of its members without the consent of the Mayor.
- (B) The Director of Law shall be an attorney-at-law duly authorized to practice law in the State of Ohio. The Director of Law shall not hold any other incompatible public office, under the laws of Ohio, except he or she may hold office in a political party or be a delegate to a political party convention, serve as a notary public, serve as a member or officer in the military reserve or national guard, serve in any office, position or capacity to further intergovernmental cooperation, and may hold any office permitted by this Charter, the ordinances or resolutions of the City or the laws of Ohio.
- (C) The Director of Law shall be the legal advisor, prosecuting attorney and counsel for the City, and subject to the direction of Council, shall represent the City in all proceedings in Court or before any administrative board or body. The Director of Law shall perform all other powers, duties and functions now or hereafter imposed on Directors of Law under the laws of Ohio; and shall perform other duties that are legal in nature as required by this Charter, by ordinance or resolution, or as directed by the Mayor or City Administrator.

- (D) The Council may provide for assistants and special counsel to the Director of Law. All assistants shall be appointed by the Director of Law. The assistants shall be responsible to the Director of Law and when authorized, may exercise all or any part of the powers, duties and functions granted to the Director of Law under this Section. Special counsel may be employed by Council to perform powers, duties and functions authorized by and in the manner provided by Council.
- (E) In the event of a vacancy in the office of Director of Law, a successor shall be appointed in the same manner as provided in Division (A) of this Section in the case of an original appointment. The Director of Law shall designate, by a writing filed with the Clerk of Council, a qualified person to serve as Acting Director of Law in the event of his or her temporary absence or disability. In the event of an extended absence or disability beyond forty-five (45) consecutive days, the Acting Director of Law shall be confirmed or removed from exercising the powers, duties and functions of the Director of Law as provided in this Section. (Amended 11-8-16)

SECTION 6.02 DIRECTOR OF FINANCE.

- (A) The Director of Finance shall be under the supervision, direction and control of the Mayor and Council, who shall be appointed by the Mayor and confirmed by Council by a majority vote of its members. The Director of Finance shall serve at the pleasure of the Mayor and Council and may be suspended or removed without cause by the Mayor with the consent of the Council granted by a majority vote of its members, or by Council by a two-thirds (2/3) vote of its members without the consent of the Mayor.
- (B) The Director of Finance shall be qualified by training or experience to carry out the powers, duties and functions of the office. The Mayor and the Council shall be the sole judges of the qualifications of the Director of Finance. The Director of Finance shall not hold any other public office, except he or she may hold office in a political party or be a delegate to a political party convention, serve as a notary public, serve as a member or officer in the military reserve or national guard, serve in any office, position or capacity to further intergovernmental cooperation, and may hold any office permitted by this Charter, ordinance or resolution and the laws of Ohio.
- (C) The Director of Finance shall be the chief fiscal officer of the City and shall perform the powers, duties and functions now or hereafter given to City Auditors and Treasurers under the general laws of Ohio to the extent those laws are not in conflict with this Charter. The Director of Finance, in addition to the powers, duties and functions prescribed by this Charter, shall have other powers, duties and functions as required by ordinance or resolution, or as directed by the Mayor. The Director of Finance shall keep the financial records of the City, establish the accounting systems, financial records and reports used by the offices, departments, divisions, bureaus, boards and commissions of the City; assist the City Administrator in the preparation and submission of appropriation measures, estimates, budgets, capital programs and other financial matters; provide full and complete information concerning the financial affairs and status of the City as requested by the City Administrator, Mayor or Council; and provide full and complete information and assistance concerning the finances or accounting systems or records of any office, department, division, bureau, board or commission of the City as requested by the City Administrator.

- (D) In the event of a vacancy in the office of Director of Finance, a successor shall be appointed in the same manner as provided in Division (A) of this Section in the case of an original appointment. The Director of Finance shall designate in writing, filed with the Clerk of Council, a qualified person to serve as Acting Director of Finance in the event of his or her temporary absence or disability. In the event of an extended absence or disability beyond forty-five (45) consecutive days, the Acting Director shall be confirmed or removed from exercising the powers, duties and functions of the Director of Finance as provided in this Section.
- (E) The Council shall provide for an independent Internal Control Audit of all City accounts which shall occur at least once every six (6) years and Council may provide for more than frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accounts who have no personal interest, direct or indirect, in the fiscal affairs of the City's government or any of its officers. The Council may, without requiring competitive bids, designate such account or firm annually or for a period not exceeding three (3) years. (Amended 11-8-16)

SECTION 6.03 OTHER ADMINISTRATIVE DEPARTMENTS.

(A) The following administrative departments are created upon the effective date of the Charter, except that the Department of Fire shall be created only if the City's fire protection services shall cease to be provided by a fire district or under contract with another political subdivision or private fire company:

(1) A Department of Police Services to be headed by a Police Chief appointed by the Mayor, confirmed by Council and under the general direction and

supervision of the Mayor.

- (2) A Department of Fire Services if and when such department is authorized by the Council, by ordinance or resolution, pursuant to this Division A, and when created the Department of Fire Services shall be headed by a Fire Chief appointed by the Mayor, confirmed by Council and under the general direction and supervision of the Mayor.
- (3) A Department of Utility Services to be headed by a Director of Utility Services, which shall administer the water and sewer facilities and services.
- (4) A Department of Public Services to be headed by a Director of Public Services, to include the functions of streets and cemeteries and other matters assigned by ordinance or resolution.
- (5) A Department of Engineering to be headed by a City Engineer, however the Council must first authorize this department by ordinance or resolution. This function may also be provided by contract with appropriate engineering firms, as determined and selected by the Council by ordinance or resolution.
- (6) A Department of Inspection to be headed by a Chief Inspector to provide for zoning, building and housing inspections and to provide other functions as may be determined by ordinance or resolution. This function may be provided by contract as determined and selected by the Council by ordinance or resolution.
- (7) Such other departments and divisions or other sub-units thereof as created by ordinance or resolution.
- (B) The Departments of Utility Services, Public Services, Engineering, and Inspection shall be under the direction and supervision of the City Administrator.
- (C) In the event the City does not exercise functions requiring any of the departments enumerated in Division (A) of this Section at the time this Charter becomes effective, such departments shall not be provided for until the Council shall authorize their creation by ordinance or resolution.

- (D) The Council may abolish, combine, merge, change or alter any department created or authorized by Division (A) of this Section by ordinance or resolution, except that the Departments of Police Services shall not be abolished, combined or merged.
- (E) The departments and divisions of the City, and their administrative heads, shall have those powers, duties and functions as provided by this Charter, by ordinance or resolution, and as provided by the general laws of Ohio; except if such general laws are inconsistent with this Charter or the ordinances or resolutions of the City. (Amended 11-8-16)

SECTION 6.04 ACTING DEPARTMENT AND DIVISION HEADS.

In the event of a vacancy or the temporary absence or disability of the head of any administrative department or division authorized or created pursuant to Section 6.03 of this Charter, the Mayor in the case of police and fire and the City Administrator, other than with respect to police and fire may appoint an acting head of the department or division until the vacancy is filled or the temporary absence or disability is removed. (Amended 11-8-16)

ARTICLE VII BOARDS AND COMMISSIONS

SECTION 7.01 MERIT SYSTEM - PERSONNEL BOARD OF REVIEW.

- (A) <u>Merit Principle.</u> All appointments and promotions of City employees shall be made on the basis of merit and fitness demonstrated through a competitive selection process to the extent practicable, except as otherwise provided by ordinance or resolution.
- (B) <u>Classified and Unclassified Service.</u> Council shall establish a classified and unclassified service for the employees of the City. Council shall adopt ordinances or resolutions setting forth personnel practices and procedures to define and govern the classified and unclassified service of the City.
- (C) <u>Composition and Terms.</u> The Personnel Board of Review shall consist of five (5) persons who are electors of the City during their term of office, who shall serve overlapping three-year terms and shall be appointed by a majority vote of the members of Council. The first appointments under this Charter of Board Members shall be as follows: two shall be appointed for three year terms, two shall be appointed for two year terms and one shall be appointed for a one year term.
- (D) <u>Powers and Duties.</u> The Personnel Board of Review shall have the power and duty to hear appeals from administrative determinations made pursuant to ordinances and resolutions setting forth personnel practices and procedures; and any other powers, duties and functions as may be provided by ordinance or resolution.
- (E) <u>Discipline of Unclassified Personnel</u>. The dismissal or suspension of unclassified personnel may be appealed to the Council for review. It shall require five affirmative Council votes to affirm the dismissal or suspension of an unclassified person who has been removed or suspended by the City Administrator or other appointing authority due to acts or omissions constituting misfeasance, malfeasance, or nonfeasance with respect to their official actions or work. (Amended 11-8-16)

SECTION 7.02 PLANNING AND ZONING COMMISSION.

(A) There is hereby created a Planning and Zoning Commission consisting of seven (7) persons who are electros of the City during their term of office to be appointed by Council by a majority vote of its members. Members of the Planning and Zoning Commission shall serve overlapping four year terms of office.

(B) The powers, duties and functions of the Planning and Zoning Commission shall be provided by this Charter and the ordinances and resolutions of the City. In the absence of any such ordinances or resolutions, the Planning and Zoning Commission shall have the power to review and approve plats and shall have all of the other powers and authority conferred upon city planning commissions by State law. (Amended 11-8-16)

SECTION 7.03 BOARD OF ZONING APPEALS.

- (A) There is hereby created a Board of Zoning Appeals consisting of five (5) persons who are electors of the City during their term of office to be appointed by Council by a majority vote of its members. Members of the Board shall serve overlapping four year terms of office.
- (B) The Board of Zoning Appeals shall have the power to hear and decide appeals for exceptions to and variances in, the application of resolutions, ordinances, regulations and other legislative measures and orders of administrative officials or agencies governing zoning in the City, as may be required to afford justice and avoid unreasonable hardship, subject to such reasonable standards as shall be prescribed by Council by ordinance or resolution. The Board shall have such additional powers, duties and functions, relative to appeals from actions of the City's administrative officers or employees concerning public buildings, streets or other public property or works, as provided by ordinance or resolution. Appeals from actions of the Board shall be directly to an appropriate Court and not to the Council.
- (C) The Board of Zoning Appeals may make advisory recommendations to the Council and the Planning and Zoning Commission concerning zoning matters as it believes to be in the best interest of the City. The Board shall have such other powers, duties and functions consistent with this Charter, as provided by the City's ordinances and resolutions. (Amended 11-8-16)

SECTION 7.04 PARK AND RECREATION BOARD.

- (A) There is hereby created a Park and Recreation Board consisting of five (5) persons who are electors of the City during their term of office to be appointed by the Mayor and confirmed by Council by a majority vote of its members. Two of the members shall be appointed from among persons recommended by the boards of education of the school districts serving the City as follows: one from the Southwest Licking Local School District and one from the Licking Heights Local School District, or the successor to such Districts. Members of the Board shall serve overlapping four year terms of office.
- (B) The Park and Recreation Board shall elect one of its own members as chairman to serve a term of one year. Vacancies on the Board shall be filled in the same manner as original appointments were made. The organization and duties of the Board shall be as provided for in the ordinances and resolutions of Council.
- (C) The Park and Recreation Board shall be subject to the purchasing and financial appropriations as well as other regulatory ordinances or resolutions of Council. All expenditures shall be approved by the City Administrator.

The City Administrator shall have the power and duty to employ a Park Manager subject to the confirmation of such employment by a majority vote of the members of Council. Council may consider input from Park Board. The Park Manager shall be responsible to the City Administrator with recommendations from the Park Board. (Amended 11-8-16)

SECTION 7.05 CHARTER REVIEW COMMISSION.

(A) Beginning with the first Council meeting in October, 2019 and each five (5) years thereafter, the Council shall appoint a Charter Review Commission consisting of seven (7) persons who are electors of the City during their term of office to serve for a term of one year.

- (B) The Commission shall review the provisions of the Charter and shall make written recommendations, if any, to the Council for revisions to the Charter. The Council may cause any of the recommendations to be submitted to a vote of the electors of the City Charter amendment.
- (C) The Council shall appropriate sufficient funds for the operation and expenses of the Charter Review Commission. (Amended 11-8-16)

SECTION 7.06 ORGANIZATION, VACANCIES.

(A) Unless otherwise provided in this Charter, each of the City's boards and commissions whether created by this Charter or by ordinance or resolution, shall:

(1) Organize at its first meeting each year by electing a chairman, vice chairman and secretary. The chairman and vice chairman shall be members of the board or commission and the secretary may be elected from within or without the membership of the board or commission. The secretary shall keep an accurate and complete record of the proceedings of the board or commission and shall file a copy of its proceedings with the Clerk of Council for public inspection.

(2) Take action by motion, and a majority vote of the members of the board or commission shall be necessary to take action. A majority of the members shall constitute a quorum. All members of boards and commissions, appointed to office under Sections 7.01 through 7.05 of this Charter shall be electors of the City during their term of office.

(3) Adopt rules for calling regular and special meetings, as well as the conduct and governance of the board or commission. However, the rules shall not conflict with the provisions of this Charter or ordinances or resolutions of the City, and shall be in conformity with Ohio's open meetings law.

- (B) Unless otherwise provided in this Charter, a vacancy during the term of any member of a board or commission created by this Charter or by ordinance or resolution shall be filled for the unexpired term, if any, in the manner authorized for an original appointment; provided that if such appointing authority shall fail to fill the vacancy by appointment within sixty days, the Mayor or Council shall fill the vacancy by appointment for the unexpired term, if any.
- (C) Members of board and commissions appointed to office under Sections 7.01 through 7.05 shall hold no other office or position of employment with the City during their term of office.
- (D) Council may not abolish or combine boards and commissions specifically created in this Charter. (Amended 11-8-16)

ARTICLE VIII FINANCE, TAXATION AND DEBT

SECTION 8.01 GENERAL.

The laws of Ohio relating to budgets, appropriations, taxation, debts, bonds, assessments and other fiscal matters of the City shall be applicable to the City, except as modified by or necessarily inconsistent with the provisions of this Charter, or when provision therefore is made in the Constitution of Ohio; provided that the Council shall not adopt a municipal income tax unless the income tax is approved by a majority vote of the electors voting on the issue. This prohibition shall not affect the ability of the City to participate in a joint economic development district under the laws of Ohio.

SECTION 8.02 CONTRACTING POWERS AND PROCEDURES.

- (A) The City Administrator shall be the contracting officer of the City and shall award and execute all contracts on behalf of the City.
- (B) When any expenditure or contract is more than the amount specified by the laws of Ohio, unless a lesser amount is established by Council, whichever is less, for which work may be accomplished only after advertisement and bidding, such contract or expenditure shall first be authorized or directed by an ordinance or resolution passed by the Council and shall be advertised once a week for at least two weeks in a newspaper of general circulation in the City; provided the Council, by an ordinance or resolution adopted by the affirmative vote of at least two-thirds of its members, may authorize, without advertising and competitive bidding, contracts and expenditures for any purpose where the statutory or common law of Ohio does not require competitive bidding. Council may from time to time, provide for alternate methods of publication including publication by electronic means when determined appropriate so long as full-text copies of actions of Council are maintained in the Office of the Clerk of Council.
- (C) When it becomes necessary to make alterations or modifications in connection with any work or improvements covered by contract, they shall be made only upon the order of the City Administrator. The alterations or modifications amount(s) that may be approved solely by the City Administrator shall be limited to the amount prescribed in Part B of this Section. Any alteration or modification in excess of this amount shall require approval by Council.
- (D) No contract, agreement or other contractual obligation involving the expenditure of money shall be entered into or authorized by the City Administrator unless the Director of Finance or his or her duly authorized representative shall first certify:
 - (1) That the money required for such contract, agreement, obligation or expenditure is in the City's treasury or in the process of collection thereto, and
 - (2) That the money has been appropriated by Council for the purpose of the contract, which may be included in a general description of purpose, and it remains unencumbered.

The certification as to the availability of funds and the appropriation of funds shall be filed and recorded in the accounting records of the City and a copy furnished the vendor or contractor. Without the certification, contractual obligations shall be unenforceable against the City unless subsequently authorized by the Council by a majority vote of its members.

(E) The City Administrator shall not divide any order or contract to avoid the requirements of competitive bidding. (Amended 11-8-16)

ARTICLE IX NOMINATIONS AND ELECTIONS

SECTION 9.01 NOMINATIONS.

Nominations for all elected offices of the City shall be made by non-partisian petition only and no primary election shall be held to nominate officers of the City. Nominating petitions for all elected offices of the City shall be in the form determined by the election authorities provided under the general laws of the Ohio and signed by electors of the City. In the case of petitions for members of Council to be elected at-large or from wards, such signatures gathered shall equal in number to not less than one percent (1%) nor more than three percent (3%) of those electors of the City or ward, as appropriate, who voted at the last preceding gubernatorial election. (Amended 11-8-16)

SECTION 9.02 REGULAR MUNICIPAL ELECTIONS.

The regular municipal elections for all elected offices, and for issues to be presented to the electors of the City, shall be held on the dates and at the times fixed by the election laws of Ohio for general statutory plan cities, except that all such offices shall be elected to terms of office as provided in this Charter. (Amended 11-8-16)

SECTION 9.03 SPECIAL ELECTIONS.

The Council may, at any time, order a special election by ordinance or resolution which shall set forth the date and purpose of the election, including but not limited to the referral of pending ordinances and resolutions to the electors for their approval or rejection. Special elections may be held on any date, including but not limited to the dates of general and primary elections in odd or even numbered years.

SECTION 9.04 CONDUCT OF ELECTIONS.

All regular and special elections shall be conducted by the election officials as established under the laws of Ohio. Such elections shall be held in conformity with the provisions of this Charter. Where the Charter is silent, the provisions of the election laws of Ohio shall be followed.

ARTICLE X INITIATIVE, REFERENDUM AND RECALL

SECTION 10.01 INITIATIVE AND REFERENDUM.

Ordinances, resolutions, issues and other measures may be proposed by initiative petition and adopted by election, and ordinances and resolutions adopted by the Council shall be subject to referendum, as provided by the Constitution and laws of Ohio, provided ordinances and resolutions calling elections under this Charter shall not be subject to referendum.

SECTION 10.02 RECALL.

- (A) The electors shall have the power to remove from office by a recall election any elected official of the City in the manner provided in this Section.
- If the elected official shall have served six months of his or her term, an elector or electors of the City may serve written notice upon the Clerk of Council of their intent to circulate petitions for the recall of a named elected official or officials. No petitions for the recall of an elected official may be circulated until such written notice of intent is served upon the Clerk of Council, Not later than thirty days after service of such notice of intent on the Clerk of Council, such persons may file, with the Clerk of Council, a petition demanding the removal of an elected official. Separate petitions shall be filed for each elected official sought to be removed by recall. The Clerk shall note thereon the name and address of the person filing the petition and the date of such filing, and deliver to such person a receipt therefor and attach a copy thereof to said petition. Such petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. Each part shall contain the name and office of the person whose removal is sought. Such petition shall be signed by at least that number of electors which equals twenty percent (20%) in number of the electors voting at the last preceding regular municipal election, provided, if the petition is filed demanding the removal of a ward Council member, such petition shall be signed by at least that number of electors from such ward which equals twenty percent (20)%) in number of the electors voting in such ward at the last preceding regular municipal election.

- (C) Within ten days after the day on which such petition is filed, the Clerk of Council shall determine whether or not it meets the requirements hereof. If the Clerk of Council shall find the petition insufficient, the Clerk shall promptly certify the particulars in which the petition is insufficient, deliver a copy of the certificate to the person who filed the petition and make a record of such delivery. Such person shall be allowed a period of ten days after the day on which such delivery was made in which to make the petition sufficient. If the Clerk of Council shall find the petition sufficient, the Clerk shall promptly so certify to Council and shall deliver a copy of such certificate to the person whose removal is sought within five days and make a record of such delivery.
- If the person whose removal is sought shall not resign within five days after the day (D) on which the Clerk's certificate shall have been delivered, Council shall, by ordinance or resolution, fix a day for holding a recall election, which date shall not be less than forty days nor more than sixty days after the date of the Clerk's certification of sufficiency to the Council, and shall cause notice of such recall election to be published on the same day of each week for two consecutive weeks in a newspaper of general circulation in the City. At such recall election, this question shall be placed upon the ballot: "Shall (naming the person whose removal is sought) be allowed to continue as (naming the office)," with the provision on the ballot for voting affirmatively or negatively. In the event of a majority of the vote is negative, such person shall be removed, the office shall be vacant, and such vacancy shall be filled as provided in this Charter. If the person is not removed at such recall election, no further recall petitions shall be filed against him or her for a period of one year following such election. In the event that a recall election is ordered, as provided by this Section, for a ward Council member, only the electors of the ward which such Council member represents shall be entitled to vote upon the issue of recall. (Amended 11-8-16)

ARTICLE XI GENERAL PROVISIONS

SECTION 11.01 REMOVAL OF OFFICIALS.

- (A) Elected officials and members of Boards and Commissions shall be removed for cause as provided in this Section of the Charter.
- (B) As used in this Section of the Charter, the "Charging Official" shall mean: the "Mayor" except where the person accused of a ground for removal is the person holding the office of Mayor, or the president pro-tempore of Council where the person sought to be removed for cause holds the office of Mayor.
- (C) The Charging Official, if he or she has reason to believe there is probable cause (as such causes are defined in this Section 11.01) for the removal of an elected official or member of a Board or Commission, shall give notice of the alleged cause for removal and the time, date and place of the commencement of hearing for removal, which shall not be earlier than ten days after the service of the notice to the accused person by personal service, certified mail, or by leaving a copy of such notice at the person's last known place of residence in the City. At such time, date and place and at any adjourned meetings, the Council shall hear, provide an opportunity to the accused person to be heard and present defenses, and determine whether the accused person shall be removed from his or her office. The Council may remove an official for any of the following causes by a two-thirds vote of the members of the Council, provided that if the accused person is a member of Council, such person shall not be counted in determining required majorities:

- (1) Unexcused absences from any three consecutive regular meetings of the Council or the Board or Commission on which such person serves or any six regular or special meetings thereof in any year, provided the accused person received notice of special meetings. An absence from a regular or special meeting may be excused by a majority vote of the members of the Council or the Board or Commission on which such person serves at any time, including the excusing of any absence after action is initiated but prior to the commencement of hearings for the person's removal under this Section.
- Failure to possess or maintain the qualifications of the office.
- (2) (3) A determination that the accused person is guilty of misfeasance, malfeasance or nonfeasance in office.
- (4)Conviction of a crime that is a felony.
- Upon the removal of an official from office pursuant to this Section, the office of the offending person shall be vacant, subject to any appeal to and review by an appropriate court, and the vacancy shall be filled as provided in this Charter.
- The removal of an official or the occurrence of any of the causes permitting the removal shall not invalidate any action of the official or any body, including the Council, in which the member participated. The subsequent removal of a person who fills a vacancy created pursuant to this Section by the reinstatement by a court of a person previously removed by the Council, shall not invalidate any action of the person who filled the vacancy or any body, including the Council, in which such person who filled the vacancy participated.
- The Council shall be the judge of the qualifications of and of the grounds for removal from office and shall conduct the proceedings relative to removal. The Council shall have the power to subpoena witnesses, administer oaths and require the production of evidence, either on its own motion or through the process of any appropriate court or officer thereof. A person charged with conduct constituting grounds for removal from office shall be entitled to a public hearing. A record of the proceedings shall be made and preserved. A notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing, and in such an event, the Mayor, or other presiding officer of the Council, may reschedule the time, date and place of the hearing set by the Charging Official to accommodate the publication of the notice. If the hearing is rescheduled, the Mayor or other presiding officer, shall notify the accused person of such fact. Decisions made by the Council under this Section shall be subject to review by the Courts on matters of law and whether the Council acted arbitrarily and without probative evidence to support the grounds for removal.
- The Director of Law or special counsel appointed by the Director of Law shall prosecute the removal proceedings before the Council and any review thereof by the Courts. If a person accused is not finally removed, the City shall pay the reasonable costs of the defense of such person and any compensation withheld pending the appeal of the action of the Council.

SECTION 11.02 CONFLICTS OF INTEREST, ETHICS, CAMPAIGN FINANCING.

The laws of Ohio pertaining to conflicts of interest, criminal misbehavior, ethics and financial disclosure by municipal officials and employees, and campaign financing and other election practices of candidates for municipal office shall apply under this Charter.

SECTION 11.03 SUCCESSION.

The City of Pataskala under this Charter is hereby declared to be the legal successor of the City of Pataskala under the laws of Ohio; and shall have title to all property, real and personal, owned by its predecessor, including all moneys on deposit and all taxes or assessments in process of collection, together with all accounts receivable and rights of action. The City shall be liable for all outstanding orders, contracts and debts of its predecessor, and any other obligations for which it may be held liable by any court of competent jurisdiction. All contracts entered into by the City or for its benefit prior to the effective date of this Charter shall continue in full force and effect.

SECTION 11.04 EFFECT OF CHARTER ON EXISTING LAWS AND RIGHTS.

- (A) The adoption of this Charter and any amendments thereafter shall not affect any preexisting rights of the City nor any right, liability, pending suit or prosecution, either on behalf of or against the City or any officer thereof, nor any franchise granted by the City nor pending proceedings for the authorization of public improvements or the levy of assessments therefor. Except as a contrary intent appears in this Charter, all acts of Council of the City including ordinances and resolutions in effect at the date this Charter became effective, shall continue in effect until amended or repealed.
- (B) No action or proceedings pending against the City or an officer thereof shall be abated or affected by the adoption of this Charter and any amendments thereafter. All actions or proceedings shall be prosecuted or defended under the laws in effect at the time they were filed. (Amended 11-8-05.)

SECTION 11.05 RETIREMENT SYSTEM - HEALTH DISTRICT.

The laws of Ohio governing the retirement of officers and employees of the City and the organization of health districts shall be applicable under this Charter.

SECTION 11.06 AMENDMENT OF CHARTER.

This Charter may be amended by the voters of the City as provided by the Constitution of Ohio. (Amended 11-8-16)

SECTION 11.07 EFFECT OF PARTIAL INVALIDITY.

A determination that all or any part of any Article, Section or Division of this Charter is invalid shall not invalidate or impair the force and effect of any other part, except to the extent that the other part is wholly dependent for its operation upon the part declared invalid.

SECTION 11.08 OATH OF OFFICE.

The following oath or affirmation, or some other suitable oath or affirmation, shall be signed by each elected or appointed officer and filed with the Clerk of Council.

City of Pataskala Oath of Office

I, < state your name >, do solemnly and sincerely promise and swear or affirm that I will conform to and uphold the Constitution of both the United States of America and the State of Ohio, and will support the Charter and all ordinances and resolutions of the City of Pataskala, Ohio;

I will be loyal and, with strict adherence, obey the duties of my office set forth by law and the will of the citizens of the City of Pataskala, Ohio,

So help me God.

Failure to take the oath or affirmation shall not cause a loss of qualifications for and the holding of an elected office unless the officer shall refuse or fail to sign an oath or affirmation and to file it with the Clerk of Council within forty-five (45) days after notice is given by the Clerk of Council that a signed oath or affirmation has not been filed with the Clerk of Council. (Amended 11-8-16)

ARTICLE XII TRANSITIONAL PROVISIONS

SECTION 12.01 EFFECTIVE DATE OF CHARTER.

This Charter took effect January 1, 1998. Proposed amendments to the Charter may be submitted to the electors of the City as provided by this Charter and the Constitution of Ohio. If approved by a majority of the electors voting, the amendments shall take effect from the date the final result of the election is certified by the election authorities for the purpose of designating, nominating and electing officers of the City and conducting municipal elections. (Amended 11-8-05.)

SECTION 12.02 EFFECT OF CHARTER ON EXISTING OFFICES.

Except as otherwise provided by this Charter, all persons holding office at the time this Charter and any amendments thereafter take effect shall continue in office and in the performance of their duties until other provisions have been made in accordance with this Charter for the performance or discontinuance of the duties of the office. When that provision shall have been made, the term of any officer shall expire and the office shall be abolished. The powers conferred and the duties imposed upon any officer, body, commission, board, department or division of the City under the laws of Ohio, this Charter or under any municipal ordinance, resolution or contract in force at the time this Charter or any amendments thereafter takes effect, if the office, body, commission, board, department or division is abolished by this Charter, shall be thereafter exercised and discharged by those upon whom are imposed corresponding functions, powers and duties by this Charter or by any ordinance or resolution of Council thereafter enacted. (Amended 11-8-05.)

SECTION 12.03 CONTINUANCE OF PRESENT EMPLOYMENT.

Every employee of the City on the effective date of this Charter and any amendments thereafter shall continue in such employment subject in all respects to the provisions of this Charter and ordinances, resolutions, rules or regulations enacted or promulgated under this Charter. (Amended 11-8-05.)

CODIFIED ORDINANCES OF PATASKALA

PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

Chap. 101. Codified Ordinances.

Chap. 103. Wards and Boundaries.

Chap. 105. City Property.

TITLE THREE - Legislative

Chap. 113. Council.

Chap. 115. Legislation.

TITLE FIVE - Administrative

Chap. 121. Mayor.

Chap. 123. City Administrator.

Chap. 125. Department of Law.

Chap. 127. Department of Finance.

Chap. 129. Department of Police Services.

Chap. 131. Department of Utility Services.

Chap. 133. Department of Public Services.

Chap. 135. Economic Development Department.

Chap. 141. Personnel Board of Review.

Chap. 143. Planning and Zoning Commission.

Chap. 145. Board of Zoning Appeals.

Chap. 147. Park and Recreation Board.

Chap. 149. City Records Commission.

Chap. 163. Employment Provisions.

TITLE SEVEN - Taxation

Chap. 171. Income Tax Effective January 1, 2016.

Chap. 181. Motor Vehicle License Tax.

Chap. 191. Hotel Tax.

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references.

CODIFIED ORDINANCES OF PASTASKALA PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions Chap. 101. Codified Ordinances.

Chap. 103. Wards and Boundaries.

Chap. 105. City Property.

CHAPTER 101 Codified Ordinances

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

CROSS REFERENCES

See sectional histories for similar State law
Statute of limitations on prosecutions - see Ohio R.C.
718.06; GEN. OFF. 501.06
Codification in book form - see Ohio R.C. 731.23
Imprisonment until fine and costs are paid - see Ohio R.C.
1905.30, 2947.14
Citation issuance for minor misdemeanors - see Ohio R.C.
2935.26 et seq.
Ordinances and resolutions - see ADM. Ch. 115
Rules of construction for offenses and penalties - see
GEN. OFF. 501.04

101.01 DESIGNATION; CITATION; HEADINGS.

- All ordinances of a permanent and general nature of the Municipality as revised. codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the Codified Ordinances of Pataskala, Ohio, 2000 for which designation "Codified Ordinances" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances. (ORC 1.01)
- All references to codes, titles, chapters and sections are to such components of the Codified Ordinances unless otherwise specified. Any component code may be referred to and cited by its name, such as the "Traffic Code". Sections may be referred to and cited by the designation "Section" followed by the number, such as "Section 101.01".

101.02 GENERAL DEFINITIONS.

As used in the Codified Ordinances, unless another definition is provided or the context otherwise requires:

"And" may be read "or", and "or" may be read "and", if the sense requires it. (a) (ORC 1.02(F))

(b) "Another" when used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property. (ORC 1.02(B))

"Bond" includes an undertaking and "undertaking" includes a bond. (c) (ORC 1.02(D), (E))

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

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

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

"Land" or "real estate" includes rights and easements of an incorporeal nature. (g) (ORC 701.01(F))

"Municipality" or "City" means the City of Pataskala, Ohio. (h)

"Oath" includes affirmation and "swear" includes affirm. (I) (ORC 1.59(B))

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

"Person" includes an individual, corporation, business trust, estate, trust, (k) partnership and association. (ORC 1.59(C))

(1)

"Premises", as applied to property, includes land and buildings. "Property" means real and personal property. (m) (ORC 1.59(E))

"Personal property" includes all property except real.

"Real property" includes lands, tenements and hereditaments.

"Public authority" includes boards of education; the Municipal, County, State or (n) Federal government, its officers or an agency thereof; or any duly authorized public official.

(o) "Public place" includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation or amusement.

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

mail. (ORC 1.02(G))

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

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

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

(ORC 1.59(G))

(t) "Street" includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and

all other public thoroughfares within the Municipality.

(u) "Tenant" or "occupant", as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.

(v) "Whoever" includes all persons, natural and artificial; partners; principals, agents

and employees; and all officials, public or private.

(ORC 1.02(A))

(w) "Written" or "in writing" includes any representation of words, letters, symbols or figures. This provision does not affect any law relating to signatures. (ORC 1.59(J))

101.03 RULES OF CONSTRUCTION.

- (a) <u>Common and Technical Usage.</u> Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly. (ORC 1.42)
- (b) <u>Singular and Plural; Gender; Tense.</u> As used in the Codified Ordinances, unless the context otherwise requires:
 - (1) The singular includes the plural, and the plural includes the singular.
 - (2) Words of one gender include the other genders.
 - (3) Words in the present tense include the future. (ORC 1.43)
 - (c) <u>Calendar</u>; <u>Computation of Time</u>.
 - (1) Definitions.
 - A. "Week" means seven consecutive days.
 - B. "Year" means twelve consecutive months. (ORC 1.44)
 - (2) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

 (ORC 1.45)

- (3) The time within which an act is required by law to be done shall be computed by excluding the first and including the last day, except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day which is not a Sunday or a legal holiday. When a public office, in which an act required by law is to be performed, is closed to the public for the entire day which constitutes the last day for doing such act or before its usual closing time on such day, then such act may be performed on the next succeeding day which is not a Sunday or a legal holiday. If any legal holiday falls on Sunday, the next succeeding day is a legal holiday.

 (ORC 1.14)
- (4) When legislation is to take effect or become operative from and after a day named, no part of that day shall be included.

 (ORC 1.15)
- (5) In all cases where the law shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.
- (d) <u>Authority.</u> When the law requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.
- (e) <u>Joint Authority</u>. All words purporting to give joint authority to three or more municipal officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it shall be otherwise expressly declared in the law giving the authority or inconsistent with State statute or Charter provisions.
- (f) <u>Exceptions.</u> The rules of construction shall not apply to any law which shall contain any express provision excluding such construction, or when the subject matter or context of such law may be repugnant thereto.

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

- (a) The repeal of a repealing ordinance does not revive the ordinance originally repealed nor impair the effect of any saving clause therein. (ORC 1.57)
- (b) An ordinance which is re-enacted or amended is intended to be a continuation of the prior ordinance and not a new enactment, so far as it is the same as the prior ordinance. (ORC 1.54)
- (c) The re-enactment, amendment or repeal of an ordinance does not, except as provided in subsection (d) hereof:
 - (1) Affect the prior operation of the ordinance or any prior action taken thereunder;

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

(3) Affect any violation thereof or penalty, forfeiture or punishment incurred

in respect thereto, prior to the amendment or repeal;

- (4) Affect any investigation, proceeding or remedy in respect of any such privilege, obligation, liability, penalty, forfeiture or punishment; and the investigation, proceeding or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment imposed, as if the ordinance had not been repealed or amended.
- (d) If the penalty, forfeiture or punishment for any offense is reduced by a reenactment or amendment of an ordinance, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the ordinance as amended. (ORC 1.58)

101.05 CONSTRUCTION OF SECTION REFERENCES.

- (a) A reference to any portion of the Codified Ordinances applies to all re-enactments or amendments thereof. (ORC 1.55)
- (b) If a section refers to a series of numbers or letters, the first and the last numbers or letters are included. (ORC 1.56)
- (c) Wherever in a penalty section reference is made to a violation of a series of sections or of subsections of a section, such reference shall be construed to mean a violation of any section or subsection included in such reference.

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

101.06 CONFLICTING PROVISIONS.

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

 (ORC 1.46)
- (b) If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail. (ORC 1.51)
 - (c) (1) If ordinances enacted at different meetings of Council are irreconcilable, the ordinance latest in date of enactment prevails.

- (2) If amendments to the same ordinance are enacted at different meetings of Council, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are substantively irreconcilable, the latest in date of enactment prevails. The fact that a later amendment restates language deleted by an earlier amendment, or fails to include language inserted by an earlier amendment, does not of itself make the amendments irreconcilable. Amendments are irreconcilable only when changes made by each cannot reasonably be put into simultaneous operation. (ORC 1.52)
- (d) If there is a conflict between any provision contained in the Codified Ordinances and any provision of the City Charter, the Charter provision shall prevail and govern.

101.07 DETERMINATION OF LEGISLATIVE INTENT.

- (a) In enacting an ordinance, it is presumed that:
 - (1) Compliance with the constitutions of the State and of the United States is intended:
 - (2) The entire ordinance is intended to be effective;
 - (3) A just and reasonable result is intended;
 - (4) A result feasible of execution is intended. (ORC 1.47)
- (b) An ordinance is presumed to be prospective in its operation unless expressly made retrospective. (ORC 1.48)
- (c) If an ordinance is ambiguous, the court, in determining the intention of Council may consider among other matters:
 - (1) The object sought to be attained;
 - (2) The circumstances under which the ordinance was enacted;
 - (3) The legislative history;
 - (4) The common law or former legislative provisions, including laws upon the same or similar subjects;
 - (5) The consequences of a particular construction;
 - (6) The administrative construction of the ordinance. (ORC 1.49)

101.08 SEVERABILITY.

If any provision of a section of the Codified Ordinances or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of the section or related sections which can be given effect without the invalid provision or application, and to this end the provisions are severable. (ORC 1.50)

101.99 GENERAL PENALTY.

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

CHAPTER 103 Wards and Boundaries

103.01 Wards.

CROSS REFERENCES
Name and boundary - see CHTR. 1.01
Wards and boundaries - see CHTR. 3.03 Annexation and detachment - see Ohio R.C. Ch. 709

103.01 WARDS.

The City of Pataskala shall hereinafter be divided into four wards, as set forth in exhibit A to Ordinance 2011-4045 and as shown on the enclosed map.

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CHAPTER 105 City Property

105.01 Acceptance of gifts and donations.

105.03 Evaluation of appropriateness.

105.02 Determination of value.

CROSS REFERENCES Unauthorized use - see GEN. OFF. 545.06, 545.08

105.01 ACCEPTANCE OF GIFTS AND DONATIONS.

- (a) Council hereby authorizes the City Administrator to accept gifts donated to the City, other than real estate, to be used for municipal purposes, the estimated value of which does not exceed two thousand five hundred dollars (\$2,500.00).
- (b) Gifts to the City exceeding two thousand five hundred dollars (\$2,500.00) in estimated value shall be accepted by Council by Motion or by Resolution.
 - (c) Gifts and donations of real estate must receive the approval of Council.
- (d) The City Administrator must approve any and all gifts donated to employees or officers for the personal benefit of City employees or officers.
- (e) Council hereby authorizes and directs the Finance Director to establish and maintain such separate accounts as may be necessary for the acceptance and use of gifts donated to the City.
- (f) The Finance Director shall report in writing to Council, on an annual basis, or at any time upon the request of Council, as to gifts made to the City.
- (g) Nothing herein shall require the City Administrator or Council to accept any gift, of whatever kind or value, offered to the City.

(h) The City shall comply with appropriate IRS regulations and publications as amended from time to time, such as Publication 1771 - Charitable Contributions - Substantiation and Disclosure Requirements, regarding the acceptance of such gifts. The City's Finance Department shall provide the donor with a contemporaneous, written acknowledgment shall be provided which acknowledges receipt of the donation. (Ord. 2013-4135. Passed 4-15-13.)

105.02 DETERMINATION OF VALUE.

The City, whether by the Administrator or Finance Director may request such documentation as may be determined to be appropriate to establish the value of any gift offered to the City prior to the acceptance of such gift. (Ord. 2013-4135. Passed 4-15-13.)

105.03 EVALUATION OF APPROPRIATENESS.

- (a) As to any gift offered to the City within the parameters contemplated by Section 105.01(a) of this Chapter, the City Administrator is authorized to determine whether a proposed gift is an appropriate item for the City to accept and, where applicable, to determine the location where such item is to be located and/or displayed.
- (b) As to any gift offered to the City within the parameters contemplated by Section 105.01(b) of this Chapter, Council reserves the right to determine whether a proposed gift is an appropriate item for the City to accept and, where applicable, to determine the location where such item is to be located and/or displayed. (Ord. 2013-4135. Passed 4-15-13.)

TITLE THREE - Legislative

Chap. 113. Council. Chap. 115. Legislation.

CHAPTER 113 Council

EDITOR'S NOTE: There are no sections in Chapter 113. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Powers of Council - see CHTR. 3.01
Composition, term, qualifications - see CHTR. 3.02
Wards and boundaries - see CHTR. 3.03
Clerk of Council - see CHTR. 3.04
Council meetings - see CHTR. 3.05
Organization and rules - see CHTR. 3.06
Salaries of elected officials - see CHTR. 3.07
Council vacancies - see CHTR. 3.08
Elections - see CHTR. 9.01 to 9.04
Removal of officials - see CHTR. 11.01
Conflicts of interest, ethics, campaign financing - see
CHTR. 11.02
Oath of office - see CHTR. 11.08



CHAPTER 115 Legislation

EDITOR'S NOTE: There are no sections in Chapter 115. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Form of action by Council - see CHTR. 4.01
Introduction of Ordinances and Resolutions - see CHTR. 4.02
Form of Ordinances and Resolutions - see CHTR. 4.03
Reading Ordinances and Resolutions - see CHTR. 4.04
Vote required for passage - see CHTR. 4.05
Content of emergency legislation - see CHTR. 4.06
Effective date of legislation - see CHTR. 4.07
Authentication - see CHTR. 4.08
Recording legislation - see CHTR. 4.09
Amendment - see CHTR. 4.10
Zoning measures - see CHTR. 4.11
Adoption of technical codes - see CHTR. 4.12
Codification - see CHTR. 4.13
Publications of Ordinances and Resolutions - see CHTR. 4.14
Initiative and referendum - see CHTR. 10.01

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TITLE FIVE - Administrative

Chap. 121. Mayor.

Chap. 123. City Administrator.

Chap. 125. Department of Law.

Chap. 127. Department of Finance.

Chap. 129. Department of Police Services.

Chap. 131. Department of Utility Services.

Chap. 133. Department of Public Services.

Chap. 135. Economic Development Department.

Chap. 141. Personnel Board of Review.

Chap. 143. Planning and Zoning Commission.

Chap. 145. Board of Zoning Appeals.

Chap. 147. Park and Recreation Board.

Chap. 149. City Records Commission.

Chap. 163. Employment Provisions.

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

Powers of Mayor - see CHTR. 5.02

Vacancy - see CHTR. 5.03

Elections - see CHTR. 9.01 - 9.04

Removal of officials - see CHTR, 11.01

Conflict of interest, ethics, campaign financing -

see CHTR. 11.02

Oath of office - see CHTR. 11.08

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CHAPTER 123 City Administrator

123.01 Assistant to City Administrator.

123.02 Disposition of unneeded or obsolete property.123.03 Use of propertyroom.com.

CROSS REFERENCES

Charter provisions - see CHTR. 5.04 Powers of City Administrator - see CHTR. 5.05 Contracting powers and procedures - see CHTR. 8.02

123.01 ASSISTANT TO CITY ADMINISTRATOR.

- (a) The position of Assistant to the City Administrator is hereby created within the City.
 - (b) The City Administrator shall appoint the Assistant to the City Administrator.
- (c) Said position shall be an unclassified position and shall receive compensation within the prescribed range of pay grades commencing at PS 11-2 annually. (Ord. 2007-3774. Passed 6-4-07.)
- (d) Editor's Note: Ordinance 2009-3898 changed the job title of the Assistant to the City Administrator/Director of Public Services to Director of Public Services.

123.02 DISPOSITION OF UNNEEDED OR OBSOLETE PROPERTY.

The City Administrator is authorized and directed to provide for the sale of surplus equipment and supplies, including motor vehicles, in the following manner:

- (a) At such time as equipment, including motor vehicles, and supplies of the Municipality serve no useful municipal purpose, the City Administrator shall provide for the sale of such equipment or supplies as provided in this section. Such determinations shall be made not less than once during each calendar year.
- (b) Sale of surplus equipment, as determined under subsection (a) hereof, shall be sold by the City Administrator by one or more of the following methods:
 - By the acceptance of sealed bids, after advertising not less than one time in a newspaper of general circulation in the Municipality.
 - By public auction, after advertisement for not less than one time in a newspaper of general circulation in the Municipality.
 - (3) If to other governmental units or political subdivisions within the State of Ohio, at fair market value determined by the City Administrator as evidenced by sufficient documentation to establish reasonable inquiry and investigation to determine such value under the facts and circumstances present at the time such determinations are to be made.

- (c) The proceeds for the sale of surplus property shall be deposited in the Municipal Treasury to the credit of the division having jurisdiction and control over such property.
- (d) The City Administrator shall keep full and accurate records of the sale of such property.
- (e) The City Administrator shall estimate the value of equipment or supplies to be sold under the provisions of this section. The sale of equipment or supplies having an estimated value in excess of one thousand dollars (\$1,000) shall be authorized by Council before sale as provided in subsection (b) hereof. The authorization shall be made by motion entered upon the minutes of Council.
- (f) For items determined to have a fair market value of less than two hundred fifty dollars (\$250.00) by disposition by the City Administrator under such terms and conditions as the City Administrator determines to be appropriate after consultation with and the concurrence of Council.

 (Ord. 2008-3837. Passed 1-7-08.)
- (g) The Utilities Department is hereby authorized to dispose of all excess scrap metal upon passage of this subsection. Thereafter, the time frame set forth herein shall be continued or Section 123.02 shall be amended to permanently incorporate this or other similar process for property disposal. (Res. 2011-041. Passed 9-6-11.)

123.03 USE OF PROPERTYROOM.COM.

The Division of Police Services is hereby authorized to utilize the services of propertyroom.com for the disposal of current and future unneeded or obsolete items. The Division of Police Services shall provide periodic reports to the City Administrator and the Mayor of the items processed through propertyroom.com. (Ord. 2011-4033. Passed 6-20-11.)

CHAPTER 125 Department of Law

EDITOR'S NOTE: There are no sections in Chapter 125. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES
Director of Law - see CHTR. 6.01
Transitional provisions - see CHTR. 12.03

CHAPTER 127 Department of Finance

EDITOR'S NOTE: There are no sections in Chapter 127. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES
Director of Finance - see CHTR. 6.02
Finance, taxation and debt - see CHTR. 8.01
Contracting powers and procedures - see CHTR. 8.02
City Treasurer, City Auditor - see CHTR. 12.03

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CHAPTER 129 Department of Police Services

129.01 Auxiliary Police.

CROSS REFERENCES
Department established - see CHTR. 6.03
General duties - see Ohio R.C. Ch. 737
Auxiliary police - see Ohio R.C. 737.051

129.01 AUXILIARY POLICE.

(a) <u>Definitions.</u>

(1) "Auxiliary policeman" means a person appointed to the Auxiliary Police Force of the City, who has successfully completed the course of instruction and has been certified by the Ohio Peace Officers Training Council and who volunteers a specified amount of time to the City.

(2) "Sidearm" means a firearm that is approved by the Pataskala Division of

Police to be carried by the Auxiliary Policeman.

(3) "Uniform" means the required clothing and equipment that is either issued or supplied by the officer that is approved by the Division of Police.

(b) <u>Auxiliary Police Force.</u> There is hereby created an Auxiliary Police Force as hereinafter set forth. All members of the Pataskala Auxiliary Police Force shall be appointed by the Chief of Police to serve at his pleasure, and such members shall be classified as Auxiliary Police Officers.

(c) <u>Appointment.</u> Every person appointed to the Auxiliary Police Force shall have met the requirements of subsection (d) hereof, and then shall have been recommended for appointment

and appointed by the Chief of Police to the Auxiliary Police Force.

In time of emergency the Mayor may appoint any person to the Auxiliary Police Force who has not completed the application process but who is certified by the Ohio Peace Officers Training Council; however the appointment is only valid for 72 hours unless terminated sooner by the Mayor.

Upon appointment the certificate of appointment shall be prepared and copies shall be given to the Clerk of Council, the officer appointed and the officer's personnel file. All appointments awarded will fall under the parameters of and will serve at the pleasure of the Chief of Police.

(d) Application. Persons desirous of being appointed as a member of the Auxiliary Police Force shall complete the required application form and recruitment process as prescribed by the regulations covering the regular Police Division. The applicant must indicate that he/she is willing to follow all the Rules and Regulations set forth in the Pataskala Division of Police Operational and Procedural Orders and that they are willing to work no less than 16 hours a month. All applicants must pass all stages of the recruitment process before being appointed.

Upon appointment to the Pataskala Division of Police Auxiliary Subdivision the officer will take an oath and will meet all other requirements as set forth by the City of Pataskala ordinances. All Auxiliary Officers will be covered under the State of Ohio Workers' Compensation Laws.

- (e) <u>Uniform</u>. Any person appointed to the Auxiliary Police Force of the City shall furnish their own uniform. The uniform to be purchased will be the same uniform used by the full time personnel. All rules, regulations and procedures for the uniform will be the same as for the Police Subdivision. The following is a list of equipment that will be issued from the Police Division:
 - 1 Breast shield
 - 1 Hat badge
 - 2 Patches per shirt
 - 2 Patches per coat/jacket
 - 1 Set of keys for access into building
 - 1 Police identification card.

These items will be issued at the time of appointment and remain the property of the Pataskala Division of Police and shall be returned when departing from the Division.

- (f) <u>Sidearm.</u> The person appointed shall furnish their own sidearm to be used while on duty. Sidearms that are authorized are: .9mm, .40 cal., and .45 cal. If the officer purchases a .9mm or .45 cal. sidearm the division will supply the ammunition for duty and qualifications. If the person carries a .40 cal. sidearm they must purchase their own ammunition and that ammunition must be authorized by the Division.
- (g) <u>Salary.</u> In order that the members of the Auxiliary Police Force may be included on the records of the Finance Director as employees of the City, each member of the Auxiliary Police Force shall be paid an annual salary of one dollar (\$1.00) which sum shall be in addition to any other monies paid to such members as compensation for hours worked.

(NOTE: The next printed page is page 29.)

CHAPTER 131 Department of Utility Services

EDITOR'S NOTE: There are no sections in Chapter 131. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Department established - see CHTR. 6.03
Acting Department and Division heads - see CHTR. 6.04
Sewer regulations - see S.U. & P.S. Ch. 921
Water regulations - see S.U. & P.S. Ch. 925
Sewer and water rates and charges - see S.U. & P.S. Ch. 929

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CHAPTER 133 Department of Public Services

EDITOR'S NOTE: There are no sections in Chapter 133. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Department established - see CHTR. 6.03
Acting Department and Division heads - see CHTR. 6.04
Excavations - see S.U. & P.S. Ch. 905
Trees - see S.U. & P.S. Ch. 909

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.)

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CHAPTER 141 Personnel Board of Review

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

CROSS REFERENCES Merit system - see CHTR. 7.01 Organization, vacancies - see CHTR. 7.06

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CHAPTER 143 Planning and Zoning Commission

EDITOR'S NOTE: There are no sections in Chapter 143. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES
Creation, members, powers and duties - see CHTR. 7.02
Organization, vacancies - see CHTR. 7.06

CHAPTER 145 Board of Zoning Appeals

EDITOR'S NOTE: There are no sections in Chapter 145. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES Creation, members, powers and duties - see CHTR. 7.03 Organization, vacancies - see CHTR. 7.06

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CHAPTER 147 Park and Recreation Board

EDITOR'S NOTE: There are no sections in Chapter 147. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES
Creation, members, powers and duties - see CHTR. 7.04
Organization, vacancies - see CHTR. 7.06

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CHAPTER 149 City Records Commission

149.01 Creation; members.

149.03 Disposal of public records.

149.02 Functions.

CROSS REFERENCES
Records commission - see Ohio R.C. 149.39

149.01 CREATION; MEMBERS.

There is hereby created a City Records Commission ("Commission") composed of the Mayor, as chairman, Finance Director, City Law Director, and two citizens appointed by the Mayor. Each respective officer may designate an assistant or deputy to represent them on the Commission. The Commission shall appoint a secretary, who may or may not be a member of the Commission to keep a record of all proceedings. The Commission shall meet at least once every six (6) months and upon call of the chairman. (Ord. 2013-4177. Passed 1-6-14.)

149.02 FUNCTIONS.

The functions of the Commission shall include providing rules for retention and disposal of records of the City and reviewing applications for one-time records disposal and schedules of records retention and disposition submitted by city offices. The Commission may at any time review any schedule it has previously approved and, for good cause shown, revise that schedule. (Ord. 2013-4177. Passed 1-6-14.)

149.03 DISPOSAL OF PUBLIC RECORDS.

When City records have been approved for disposal, a list of such records shall be sent to the Ohio Historical Society. Before public records are disposed of, the Ohio Historical Society shall be informed and given the opportunity for a period of fifteen (15) days to select for its custody such public records as it considers being of continuing historical value. (Ord. 2013-4177. Passed 1-6-14.)

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CHAPTER 163 Employment Provisions

EDITOR'S NOTE: By Ordinance 2018-4310, as amended, the City adopted an employee handbook for the employees of the City which supersedes the legislation formerly codified under Chapter 163.

TITLE SEVEN - Taxation

Chap. 171. Income Tax Effective January 1, 2016.

Chap. 181. Motor Vehicle License Tax.

Chap. 191. Hotel Tax.

CHAPTER 171 Income Tax Effective January 1, 2016

Authority to levy tax; purpose	171.14	Service of assessment.
of tax.	171.15	Administration of claims.
Definitions.	171.16	Tax information confidential.
Imposition of tax.	171.17	Fraud.
Collection at source.	171.18	Interest and penalties.
Annual return; filing.	171.19	Authority of Tax Administrator;
Credit for tax paid to other		verification of information.
municipalities.	171.20	Request for opinion of the Tax
Estimated taxes.		Administrator.
Rounding of amounts.	171.21	Board of Tax Review.
	171.22	Authority to create rules and
Second municipality imposing		regulations.
tax after time period allowed	171.23	Rental and leased property.
for refund.		Savings clause.
Amended returns.		Collection of tax after termination
Limitations.		of ordinance.
Audits.	171.26	Election to be subject to
		R.C. 718.80 to 718.95.
	171.99	Violations; penalties.
	Definitions. Imposition of tax. Collection at source. Annual return; filing. Credit for tax paid to other municipalities. Estimated taxes. Rounding of amounts. Requests for refunds. Second municipality imposing tax after time period allowed for refund. Amended returns. Limitations.	of tax. 171.15 Definitions. 171.16 Imposition of tax. 171.17 Collection at source. 171.18 Annual return; filing. 171.19 Credit for tax paid to other municipalities. 171.20 Estimated taxes. Rounding of amounts. 171.21 Requests for refunds. 171.22 Second municipality imposing tax after time period allowed 171.23 for refund. 171.24 Amended returns. 171.25 Limitations. Audits. 171.26

CROSS REFERENCES

Power to levy income tax -see Ohio Const., Art. XVIII, Sec. 3 Municipal Income Taxes -see Ohio R.C. Ch. 718

171.01 AUTHORITY TO LEVY TAX; PURPOSE OF TAX.

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

- (B) (1) The annual tax is levied at a rate of 1.0% (one percent). The tax is levied at a uniform rate on all persons residing in or earning or receiving income in the City of Pataskala. The tax is levied on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided in Section 171.03 of this Chapter and other sections as they may apply.
 - (2) Intentionally left blank.
- (C) The tax on income and the withholding tax established by this Chapter are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax is levied in accordance with, and is intended to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). (Ord. 2015-4241. Passed 11-16-15.)

171.02 DEFINITIONS.

- (A) Any term used in this Chapter that is not otherwise defined in this Chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the ORC, unless a different meaning is clearly required. If a term used in this Chapter that is not otherwise defined in this Chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the ORC and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the ORC.
- (B) The singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

(C) As used in this Chapter:

- (1) "Adjusted federal taxable income," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under (C)(24)(e) of this division, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
 - (a) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
 - (b) Add an amount equal to five percent (5%) of intangible income deducted under division (C)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code;
 - (c) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;
 - (d) (i) Except as provided in (C)(1)(d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;

- (ii) Division (C)(1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in Section 1245 or 1250 of the Internal Revenue Code.
- (e) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- (f) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- (g) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under Section 4313.02 of the ORC;
- (h) (i) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.
- (i) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (V)(3)(b) of Section 171.05.
- (j) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (V)(3)(b) of Section 171.05.

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

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

- (2) (a) "Assessment" means a written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation that commences the person's time limitation for making an appeal to the Board of Tax Review pursuant to Section 21, and has "ASSESSMENT" written in all capital letters at the top of such finding.
 - (b) "Assessment" does not include a notice denying a request for refund issued under division (C)(3) of Section 171.09, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (C)(2)(a) of this section.
- "Audit" means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.
- "Board of Tax Review" or "Board of Review" or "Board of Tax Appeals", or other named local board constituted to hear appeals of municipal income tax matters, means the entity created under Section 171.21.
- (5) "Calendar quarter" means the three-month period ending on the last day of March, June, September, or December.
- (6) "Casino operator" and "casino facility" have the same meanings as in Section 3772.01 of the ORC.
- (7) "Certified mail," "express mail," "United States mail," "postal service," and similar terms include any delivery service authorized pursuant to Section 5703.056 of the ORC.
- (8) "Disregarded entity" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.
- (9) "Domicile" means the true, fixed, and permanent home of a taxpayer and to which, whenever absent, the taxpayer intends to return. A taxpayer may have more than one residence but not more than one domicile.
- (10) "**Employee**" means an individual who is an employee for federal income tax purposes.
- (11) "Employer" means a person that is an employer for federal income tax purposes.
- (12) "Exempt income" means all of the following:
 - (a) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state.
 - (b) Intangible income.

- (c) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (C)(12)(c) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in Section 3402(o)(2) of the Internal Revenue Code.
- (d) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
- (e) Compensation paid under Section 3501.28 or 3501.36 of the ORC to a person serving as a precinct election official to the extent that such compensation does not exceed \$1,000 for the taxable year. Such compensation in excess of \$1,000 for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.
- (f) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;
- (g) Alimony and child support received.
- (h) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or compensation from punitive damages.
- (i) Income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the ORC. Division (C)(12)(i) of this section does not apply for purposes of Chapter 5745. of the ORC.
- (j) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business.
- (k) Compensation or allowances excluded from federal gross income under Section 107 of the Internal Revenue Code.
- (1) Employee compensation that is not qualifying wages as defined in division (C)(35) of this section.
- (m) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.

- (n) An S corporation shareholder's share of net profits of the S corporation, other than any part of the share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code.
- (o) All of the income of individuals under 18 years of age.
- (p) (i) Except as provided in divisions (C)(12)(p)(ii), (iii), and (iv) of this section, qualifying wages described in division (C)(2) or (5) of Section 171.04 to the extent the qualifying wages are not subject to withholding for the City of Pataskala under either of those divisions.
 - (ii) The exemption provided in division (C)(12)(p)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.
 - (iii) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (C)(4)(b) of Section 171.04.
 - (iv) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages if both of the following conditions apply:
 - (a) For qualifying wages described in division (C)(2) of Section 171.04, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (C)(5) of Section 171.04, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;
 - (b) The employee receives a refund of the tax described in division (C)(12)(p)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.
- (q) (i) Except as provided in division (C)(12)(q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the City of Pataskala on not more than 20 days in a taxable year.
 - (ii) The exemption provided in division (C)(12)(q)(i) of this section does not apply under either of the following circumstances:
 - (a) The individual's base of operation is located in the municipal corporation.
 - (b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (C)(12)(q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 171.04 (C).

- (iii) Compensation to which division (C)(12)(q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.
- (iv) For purposes of division (C)(12)(q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.
- (r) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to Section 709.023 of the ORC on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.
- (s) Income the taxation of which is prohibited by the constitution or laws of the United States.

Any item of income that is exempt income of a pass-through entity under division (C) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

- (13) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- "Generic form" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability or for filing a refund claim.
- (15) "Gross receipts" means the total revenue derived from sales, work done, or service rendered.
- (16) "**Income**" means the following:
 - (a) (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in (C)(24)(e) of this division.
 - (ii) For the purposes of division (C)(16)(a)(i) of this section:

- (a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (C)(16)(a)(iv) of this section;
- (b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.
- (iii) Division (C)(16)(a)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division(C)(12)(n) or (C)(16)(e) of this section.
- (iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.
- (b) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.
- (c) For taxpayers that are not individuals, net profit of the taxpayer;
- (d) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings.
- (e) Intentionally left blank.

- "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the ORC, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.
- (18) "Internal Revenue Code" has the same meaning as in Section 5747.01 of the ORC.
- (19) "Limited liability company" means a limited liability company formed under Chapter 1705. of the ORC or under the laws of another state.
- "Municipal corporation" includes a joint economic development district or joint economic development zone that levies an income tax under Section 715.691, 715.70, 715.71, or 715.74 of the ORC.
- (21) (a) "Municipal taxable income" means the following:
 - (i) For a person other than an individual, income apportioned or sitused to the City of Pataskala under Section 171.03, as applicable, reduced by any pre-2017 net operating loss carryforward available to the person for the City of Pataskala.
 - (ii) (a) For an individual who is a resident of the City of Pataskala, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the City of Pataskala.
 - (b) For an individual who is a nonresident of the City of Pataskala, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the municipal corporation under Section 171.03, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the City of Pataskala.
 - (b) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (C)(21)(a)(ii)(a) or (C)(21)(b) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by Section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes, but

only to the extent the expenses do not relate to exempt income. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation and are not related to exempt income.

- "Municipality" means the same as the City of Pataskala. If the terms are capitalized in the ordinance they are referring to the City of Pataskala. If not capitalized they refer to a municipal corporation other than the City of Pataskala.
- "Net operating loss" means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.
- (24) (a) "Net profit" for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division (C)(24)(a) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (C)(24)(c) of this section.
 - (b) "Net profit" for a person other than an individual means adjusted federal taxable income reduced by any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017, subject to the limitations of division (C)(24)(c) of this section.
 - (c) (i) The amount of such operating loss shall be deducted from net profit to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five (5) consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.
 - (ii) No person shall use the deduction allowed by division (C)(24)(c) of this section to offset qualifying wages.
 - (iii) (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct more than fifty percent (50%) of the amount of the deduction otherwise allowed by division (C)(24)(c) of this section.
 - (b) For taxable years beginning in 2023 or thereafter, a person may deduct the full amount allowed by (C)(24)(c) of this section without regard to the limitation of division (C)(24)(iii)(a) of this section.
 - (iv) Any pre-2017 net operating loss carryforward deduction that is available may be utilized before a taxpayer may deduct any amount pursuant to (C)(24)(c) of this section.

- (v) Nothing in division (C)(24)(c)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (C)(24)(c))(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (C)(1)(h)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (C)(24)(c)(iii)(a) of this section shall apply to the amount carried forward.
- (d) For the purposes of this Chapter, and notwithstanding division (C)(24)(b) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.
- (e) A publicly traded partnership that is treated as a partnership for federal income tax purposes, and that is subject to tax on its net profits by the City of Pataskala, may elect to be treated as a C corporation for the City of Pataskala, and shall not be treated as the net profit or income of any owner of the partnership. The election shall be made on the annual return for the City of Pataskala. The City of Pataskala will treat the publicly traded partnership as a C corporation if the election is so made.
- (25) "Nonresident" means an individual that is not a resident.
- "Ohio Business Gateway" means the online computer network system, created under Section 125.30 of the ORC, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
- "Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.
- "Pass-through entity" means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.
- (29) "Pension" means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.
- (30) "Person" includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, governmental entities, and any other entity.

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

- (iv) Any amount that is supplemental unemployment compensation benefits described in Section 3402(o)(2) of the Internal Revenue Code and not included in wages.
- (v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with Section 1402(a)(8) of the Internal Revenue Code.
- (vi) Any amount not included in wages if all of the following apply:
 - (a) For the taxable year the amount is employee compensation that is earned outside the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under Section 911 of the Internal Revenue Code:
 - (b) For no preceding taxable year did the amount constitute wages as defined in Section 3121(a) of the Internal Revenue Code:
 - (c) For no succeeding taxable year will the amount constitute wages; and
 - (d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (C)(35)(b) of this section or ORC Section 718.03, as that section existed before the effective date of H.B. 5 of the 130th General Assembly, March 23, 2015.
- (36) "Related entity" means any of the following:
 - (a) An individual stockholder, or a member of the stockholder's family enumerated in Section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;
 - (b) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;
 - (c) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (C)(36)(d) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent of the value of the corporation's outstanding stock;
 - (d) The attribution rules described in Section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (C)(36)(a) to (c) of this section have been met.

- "Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in Section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, " twenty percent (20%)" shall be substituted for "five percent (5%)" wherever "five percent (5%)" appears in Section 1563(e) of the Internal Revenue Code.
- (38) "Resident" means an individual who is domiciled in the municipal corporation as determined under Section 171.03(E).
- (39) "S corporation" means a person that has made an election under subchapter/ordinance S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (40) "Schedule C" means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (41) "Schedule E" means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- "Schedule F" means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (43) "Single member limited liability company" means a limited liability company that has one direct member.
- "Small employer" means any employer that had total revenue of less than (44)\$500,000 during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; compensation; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.
- (45) (a) "Tax Administrator" means the individual charged with direct responsibility for administration of an income tax levied by the City of Pataskala in accordance with this Chapter. Tax Administrator does not include the state tax commissioner.
 - (b) "**Tax Commissioner**" means the tax commissioner appointed under section 121.03 of the Revised Code.
- (46) "Tax return preparer" means any individual described in Section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15.
- (47) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

- (48) (a) "Taxpayer" means a person subject to a tax levied on income by 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.
- "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) "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.

- (ii) If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the City of Pataskala each year with respect to the nonqualified deferred compensation plan.
- (d) "Refundable credit" means the amount of the City of Pataskala income tax that was paid on the non-distributed portion, if any, of a nonqualified deferred compensation plan.
- (2) If, in addition to the City of Pataskala, a taxpayer has paid tax to other municipal corporations with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.
- In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to the City of Pataskala for all taxable years with respect to the nonqualified deferred compensation plan.
- The credit allowed under this division is allowed only to the extent the taxpayer's qualifying loss is attributable to:
 - (a) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
 - (b) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

Domicile

- (E) (1) (a) An individual is presumed to be domiciled in the City of Pataskala for all or part of a taxable year if the individual was domiciled in the City of Pataskala on the last day of the immediately preceding taxable year or if the Tax Administrator reasonably concludes that the individual is domiciled in the City of Pataskala for all or part of the taxable year.
 - (b) An individual may rebut the presumption of domicile described in division (E)(1)(a) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the City of Pataskala for all or part of the taxable year.
 - (2) For the purpose of determining whether an individual is domiciled in the City of Pataskala for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:
 - (a) The individual's domicile in other taxable years;
 - (b) The location at which the individual is registered to vote;
 - (c) The address on the individual's driver's license;
 - (d) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;
 - (e) The location and value of abodes owned or leased by the individual;

- (f) Declarations, written or oral, made by the individual regarding the individual's residency;
- (g) The primary location at which the individual is employed.
- (h) The location of educational institutions attended by the individual's dependents as defined in Section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation where the educational institution is located;
- (i) The number of contact periods the individual has with the City of Pataskala. For the purposes of this division, an individual has one "contact period" with the City of Pataskala if the individual is away overnight from the individual's abode located outside of the City of Pataskala and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the City of Pataskala.
- (3) All additional applicable factors are provided in the Rules and Regulations.

Businesses

- (F) This division applies to any taxpayer engaged in a business or profession in the City of Pataskala, unless the taxpayer is an individual who resides in the City of Pataskala or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the ORC.
 - (1) Except as otherwise provided in division (F)(2) of this section, net profit from a business or profession conducted both within and without the boundaries of the City of Pataskala shall be considered as having a taxable situs in the City of Pataskala for purposes of municipal income taxation in the same proportion as the average ratio of the following:
 - (a) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the City of Pataskala during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
 - As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
 - (b) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the City of Pataskala to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 171.04 (C);
 - (c) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the City of Pataskala to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

- (2) (a) If the apportionment factors described in division (F)(1) of this section do not fairly represent the extent of a taxpayer's business activity in the City of Pataskala, the taxpayer may request, or the Tax Administrator of the City of Pataskala may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:
 - (i) Separate accounting;
 - (ii) The exclusion of one or more of the factors;
 - (iii) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the municipal corporation;
 - (iv) A modification of one or more of the factors.
 - (b) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by Section 171.12 (A).
 - (c) The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (F)(2)(a) of this section, but only by issuing an assessment to the taxpayer within the period prescribed by Section 171.12 (A).
 - (d) Nothing in division (F)(2) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a the Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.
- (3) As used in division (F)(1)(b) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:
 - (a) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
 - (i) The employer;
 - (ii) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
 - (iii) A vendor, customer, client, or patient of a person described in (F)(3)(a)(ii) of this section, or a related member of such a vendor, customer, client, or patient.
 - (b) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

- (c) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (F) (3)(a) or (b) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.
- (4) For the purposes of division (F)(1)(c) of this section, receipts from sales and rentals made and services performed shall be sitused to a municipal corporation as follows:
 - Gross receipts from the sale of tangible personal property shall be sitused to the City of Pataskala only if, regardless of where title passes, the property meets either of the following criteria:

(i) The property is shipped to or delivered within the City of Pataskala from a stock of goods located within the City of Pataskala.

- (ii) The property is delivered within the City of Pataskala from a location outside the City of Pataskala, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Pataskala and the sales result from such solicitation or promotion.
- (b) Gross receipts from the sale of services shall be sitused to the City of Pataskala to the extent that such services are performed in the City of Pataskala.
- (c) To the extent included in income, gross receipts from the sale of real property located in the City of Pataskala shall be sitused to the City of Pataskala.
- (d) To the extent included in income, gross receipts from rents and royalties from real property located in the City of Pataskala shall be sitused to the City of Pataskala.
- (e) Gross receipts from rents and royalties from tangible personal property shall be sitused to the City of Pataskala based upon the extent to which the tangible personal property is used in the City of Pataskala.
- (5) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual, or by a disregarded entity owned by the individual, shall be subject to the City of Pataskala's tax only if the property generating the net profit is located in the City of Pataskala or if the individual taxpayer that receives the net profit is a resident of the City of Pataskala. The City of Pataskala shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit sitused under this division to the municipal corporation in which the property is located.

- (6) (a) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be sitused to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to the City of Pataskala, if applicable, based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the City of Pataskala to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
 - (b) An individual who is a resident of the City of Pataskala shall report the individual's net profit from all real estate activity on the individual's annual tax return for the City of Pataskala. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such a credit is allowed under the City of Pataskala's income tax ordinance.
- (7) When calculating the ratios described in division (F)(1) of this section for the purposes of that division or division (F)(2) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.
- (8) Intentionally left blank
- (9) Intentionally left blank. (Ord. 4319. Passed 4-16-18.)

171.04 COLLECTION AT SOURCE.

Withholding provisions.

- (A) Each employer, agent of an employer, or other payer located or doing business in the City of Pataskala shall withhold an income tax from the qualifying wages earned and/or received by each employee in the City of Pataskala. Except for qualifying wages for which withholding is not required under Section 171.03 or division (B)(4) or (6) of this section, the tax shall be withheld at the rate, specified in Section 171.01, of 2%. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.
 - (B) (1) Except as provided in division (B)(2) of this section, an employer, agent of an employer, or other payer shall remit to the Tax Administrator of the City of Pataskala the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer according to the following schedule:
 - (a) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the City of Pataskala in the preceding calendar year exceeded \$2,399, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the City of Pataskala in any month of the preceding calendar quarter exceeded \$200.

- Payments under division (B)(1)(a) of this section shall be made to the Tax Administrator not later than 15 days after the last day of each month for which the tax was withheld.
- (b) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(a) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the last day of the month following the last day of each calendar quarter.
- (c) Intentionally left blank.
- If the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under Section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation, the payment shall be made by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the City of Pataskala. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section.
- (3) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by Tax Administrator and the City of Pataskala as the return required of an non-resident employee whose sole income subject to the tax under this Chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer.
- (4) An employer, agent of an employer, or other payer is not required to withhold the City of Pataskala income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.
- (5) (a) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this Chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.
 - (b) The failure of an employer, agent of an employer, or other payer to remit to the City of Pataskala the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.
- (6) Compensation deferred before June 26, 2003, is not subject to the City of Pataskala income tax or income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.
- (7) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the City of Pataskala until such time as the withheld amount is remitted to the Tax Administrator.

- (8) On or before the last day of February of each year, an employer shall file a withholding reconciliation return with the Tax Administrator listing:
 - (a) The names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the City of Pataskala during the preceding calendar year;
 - (b) The amount of tax withheld, if any, from each such employee, the total amount of qualifying wages paid to such employee during the preceding calendar year.:
 - (c) The name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year;
 - (d) Any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee;
 - (e) Other information as may be required by the Tax Administrator.
- (9) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.
- (10) An employer is required to deduct and withhold the City of Pataskala income tax on tips and gratuities received by the employer's employees and constituting qualifying wages, but only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.
- (11) The Tax Administrator shall consider any tax withheld by an employer at the request of an employee, when such tax is not otherwise required to be withheld by this Chapter, to be tax required to be withheld and remitted for the purposes of this section.

 (Ord. 2017-4306. Passed 12-4-17.)

Occasional Entrant - Withholding

- (C) (1) As used in this division:
 - (a) "Employer" includes a person that is a related member to or of an employer.
 - (b) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.

(c) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer. If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (C)(2)(a)(i) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.

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

- (d) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
- (e) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
- (f) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.
- "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than 20 days during the calendar year. "Worksite location" does not include the home of an employee.
- (2) (a) Subject to divisions (C)(3), (5), (6), and (7) of this section, an employer is not required to withhold the City of Pataskala income tax on qualifying wages paid to an employee for the performance of personal services in the City of Pataskala if the employee performed such services in the City of Pataskala on twenty (20) or fewer days in a calendar year, unless one of the following conditions applies:

- (i) The employee's principal place of work is located in the City of Pataskala.
- (ii) The employee performed services at one or more presumed worksite locations in the City of Pataskala. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in the City of Pataskala at which the employer provides or provided services that can reasonably be, or would have been, expected by the employer to last more than twenty (20) days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty (20) days" if either of the following applies at the time the services commence:
 - (a) The nature of the services are such that it will require more than twenty (20) days of the services to complete the services;
 - (b) The agreement between the employer and its customer to perform services at a location requires the employer to perform the services at the location for more than twenty (20) days.
- (iii) The employee is a resident of the City of Pataskala and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 171.04.
- (iv) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure.
- (b) For the purposes of division (C)(2)(a) of this section, an employee shall be considered to having spent a day performing services in the City of Pataskala only if the employee spent more time performing services for or on behalf of the employer in the City of Pataskala than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:
 - (i) Traveling to the location at which the employee will first perform services for the employer for the day;
 - (ii) Traveling from a location at which the employee was performing services for the employer to any other location;
 - (iii) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;
 - (iv) Transporting or delivering property described in division (C)(2)(b)(iii) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;

- (v) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.
- (3) If the principal place of work of an employee is located in another Ohio municipal corporation that imposes an income tax, the exception from withholding requirements described in division (C)(2)(a) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to that municipal corporation.
- (4) (a) Except as provided in division (C)(4)(b) of this section, if, during a calendar year, the number of days an employee spends performing personal services in the City of Pataskala exceeds the 20-day threshold, the employer shall withhold and remit tax to the City of Pataskala for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in the City of Pataskala.
 - (b) An employer required to begin withholding tax for the City of Pataskala under division (C)(4)(a) of this section may elect to withhold tax for the City of Pataskala for the first 20 days on which the employer paid qualifying wages to the employee for personal services performed in the City of Pataskala.
- (5) If an employer's fixed location is the City of Pataskala and the employer qualifies as a small employer as defined in Section 171.02, the employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the City of Pataskala, regardless of the number of days which the employee worked outside the corporate boundaries of the City of Pataskala.

 To determine whether an employer qualifies as a small employer for a
 - taxable year, a the employer will be required to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.
- (6) Divisions (C)(2)(a) and (4) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 171.04. (Ord. 2015-4241. Passed 11-16-15.)

171.05 ANNUAL RETURN; FILING.

- (A) An annual City of Pataskala income tax return shall be completed and filed by every individual taxpayer eighteen (18) years of age or older and any taxpayer that is not an individual for each taxable year for which the taxpayer is subject to the tax, whether or not a tax is due thereon.
 - (1) The Tax Administrator may accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer under Section 171.05 of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due the City of Pataskala.

- (2) Retirees having no Municipal Taxable Income for the City of Pataskala income tax purposes may file with the Tax Administrator a written exemption from these filing requirements on a form prescribed by the Tax Administrator. The written exemption shall indicate the date of retirement and the entity from which retired. The exemption shall be in effect until such time as the retiree receives Municipal Taxable Income taxable to the City of Pataskala, at which time the retiree shall be required to comply with all applicable provisions of this chapter.
- (B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.
- (C) If an individual is unable to complete and file a return or notice required by the City of Pataskala, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.
- (D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust.
 - (E) The City of Pataskala shall permit spouses to file a joint return.
 - (F) (1) Each return required to be filed under this division shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer. The return shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.
 - The Tax Administrator shall require a taxpayer who is an individual to include, with each annual return, and amended return, copies of the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040 or, in the case of a return or request required by a qualified municipal corporation, Ohio form IT-1040; and, with respect to an amended tax return, any other documentation necessary to support the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.
 - (3) The Tax Administrator may require a taxpayer that is not an individual to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio Business Gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio Business Gateway.

- After a taxpayer files a tax return, the Tax Administrator may request, and the taxpayer shall provide, any information, statements, or documents required by The City of Pataskala to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.
- (G) (1) (a) Except as otherwise provided in this Chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of Section 5747.08 of the ORC. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the City of Pataskala. No remittance is required if the net amount due is ten dollars or less.
 - (b) Except as otherwise provided in this Chapter, each annual net profit return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the Tax Administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the City of Pataskala. No remittance is required if the net amount due is ten dollars or less.
 - (2) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of the City of Pataskala's income tax return. The extended due date of the City of Pataskala's income tax return shall be the 15th day of the tenth month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.
 - (a) A copy of the federal extension request shall be included with the filing of the City of Pataskala's income tax return.
 - (b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may submit a written request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's City of Pataskala income tax return. If the request is received by the Tax Administrator on or before the date the City of Pataskala income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.

- (3) If the tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of Section 5747.08 of the ORC, a taxpayer shall automatically receive an extension for the filing of a City of Pataskala's income tax return. The extended due date of the City of Pataskala's income tax return shall be the same as the extended due date of the state income tax return.
- (4) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the City of Pataskala, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this division, including taxpayers not otherwise required to file annual returns.
- (5) To the extent that any provision in this division (G) of this section conflicts with any provision in divisions (N), (O), (P), or (Q) of this section, the provisions in divisions (N), (O), (P), or (Q) prevail.
- (H) (1) For taxable years beginning after 2015, the City of Pataskala shall not require a taxpayer to remit tax with respect to net profits if the net amount due is ten dollars or less.
 - (2) Any taxpayer not required to remit tax to the City of Pataskala for a taxable year pursuant to division (H)(1) of this section shall file with the City of Pataskala an annual net profit return under division (F)(3) of this section, unless the provisions of division (H)(3) apply.
 - (3) (a) A person may notify the Tax Administrator that the person does not expect to be a taxpayer subject to the City of Pataskala income tax ordinance for a taxable year if both the following apply:
 - (i) The person was required to file a return with the City of Pataskala for the immediately preceding taxable year because the person performed services at a worksite location (as defined in Section 4(C)(1)(g) within the City of Pataskala.
 - (ii) The person no longer provides services in the City of Pataskala and does not expect to be subject to the City of Pataskala income tax for the taxable year.
 - (b) The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the City of Pataskala. The affidavit shall also include the following statement: "The affiant has no plans to perform any services within the City of Pataskala, make any sales in the City of Pataskala, or otherwise become subject to the tax levied by the City of Pataskala during the taxable year. If the affiant does become subject to the tax levied by the City of Pataskala for the taxable year, the affiant agrees to be considered a taxpayer and to properly comply as a taxpayer with the City of Pataskala income tax ordinance and rules and regulations." The person shall sign the affidavit under penalty of perjury.
 - (c) If a person submits an affidavit described in division (H)(3)(b) the Tax Administrator shall not require the person to file a tax return for the taxable year unless the Tax Administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change.
 - (d) Nothing in division (H)(3) of this section prohibits the Tax Administrator form performing an audit of the person.

- (I) If a payment under this chapter is made by electronic funds transfer, the payment shall be considered to be made on the date of the timestamp assigned by the first electronic system receiving that payment.
- (J) Taxes withheld for the City of Pataskala by an employer, the agent of an employer, or other payer as described in Section 171.04 shall be allowed to the taxpayer as credits against payment of the tax imposed on the taxpayer by the City of Pataskala, unless the amounts withheld were not remitted to the City of Pataskala, and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.
- (K) Each return required by the City of Pataskala to be filed in accordance with this division shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return.
- (L) The Tax Administrator shall accept for filing a generic form of any income tax return, report, or document required by the City of Pataskala, provided that the generic form, once completed and filed, contains all of the information required by ordinance, resolution, or rules and regulations adopted by the City of Pataskala or the Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Chapter and of the City of Pataskala's or dinance, resolution, or rules and regulations governing the filing of returns, reports, or documents.

Filing via Ohio Business Gateway.

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

Extension for service in or for the armed forces.

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

(2)

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

Consolidated municipal income tax return.

- (R) As used in this section:
 - "Affiliated group of corporations" means an affiliated group as defined in Section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.

"Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code.

- "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (R)(1) of this section.
- (4) "Incumbent local exchange carrier" has the same meaning as in Section 4927.01 of the ORC.
- (5) "Local exchange telephone service" has the same meaning as in Section 5727.01 of the ORC.
- **(S) (1)** For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the City of Pataskala's income tax in that taxable year, and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year. The election is binding for a five (5) year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law. The election continues to be binding for each subsequent five (5) year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (S)(2) of this section or a taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.
 - An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five (5) year consolidated municipal income tax return election period in effect under division (S)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five (5) year period beginning with the first taxable year of the election.
 - An election made under division (S)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.
 - (4) When a taxpayer makes the election allowed under section 718.80 of the Revised Code, a valid election made by a taxpayer under division (S)(1) or (2) of this section is binding upon the tax commissioner for the remainder of the five-year period.

- (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:
 - 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 sitused 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 sitused 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 sitused 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.
 - "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.
 - 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;

For the fourth payment of estimated taxes each year, ninety percent (d) (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.

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:

The amount of estimated taxes that were paid equals at least ninety percent (1) (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 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.

- (D) A request for a refund that is received after the last day for filing specified in division (C) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:
 - (1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.
 - (2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven (7) days of such last day.
 - (3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven (7) days of the last day for making the request.
- (E) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety (90) days after the final filing date of the annual return, or ninety (90) days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in Section 171.18 (A)(4). (Ord. 2015-4241. Passed 11-16-15.)

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

- (A) Income tax that has been deposited with the City of Pataskala, but should have been deposited with another municipality, is allowable by the City of Pataskala as a refund but is subject to the three (3) year limitation on refunds.
- (B) Income tax that was deposited with another municipality but should have been deposited with the City of Pataskala is subject to recovery by the City of Pataskala. If the City of Pataskala's tax on that income is imposed after the time period allowed for a refund of the tax or withholding paid to the other municipality, the City of Pataskala shall allow a nonrefundable credit against the tax or withholding the City of Pataskala claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipality with respect to such income or wages.
- (C) If the City of Pataskala's tax rate is less than the tax rate in the other municipality, then the nonrefundable credit shall be calculated using the City of Pataskala's tax rate. However, if the City of Pataskala's tax rate is greater than the tax rate in the other municipality, the tax due in excess of the nonrefundable credit is to be paid to the City of Pataskala, along with any penalty and interest that accrued during the period of nonpayment.
- (D) Nothing in this section permits any credit carryforward. (Ord. 2015-4241. Passed 11-16-15.)

171.11 AMENDED RETURNS.

- (A) (1) If a taxpayer's tax liability shown on the annual tax return for the City of Pataskala changes as a result of an adjustment to the taxpayer's federal or state income tax return, the taxpayer shall file an amended return with the City of Pataskala. The amended return shall be filed on a form required by the Tax Administrator.
 - (2) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.
- (B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due, together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars (\$10.00) or less, no payment need be made. The amended return shall reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return only:

(a) To determine the amount of tax that would be due if all facts, figures, computations, and attachments were reopened; or,

- (b) If the applicable statute of limitations for civil actions or prosecutions under Section 171.12 has not expired for a previously filed return.
- (2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened; i.e., the payment shall be the lesser of the two amounts.
- (C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (E) of Section 171.12 for filing the amended return, even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is less than ten dollars (\$10.00), no refund need be paid by the City of Pataskala. A request filed under this division shall claim refund of overpayments resulting from alterations only to those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return, unless it is also filed within the time prescribed in Section 171.09.
 - (2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. All facts, figures, computations, and attachments may be reopened to determine the refund amount due by inclusion of all facts, figures, computations, and attachments.

(D) Within sixty (60) days after the final determination of any federal or state tax liability affecting the taxpayer's the City of Pataskala's tax liability, that taxpayer shall make and file an amended the City of Pataskala return showing income subject to the City of Pataskala income tax based upon such final determination of federal or state tax liability. The taxpayer shall pay any additional the City of Pataskala income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is less than ten (\$10.00) dollars. (Ord. 2015-4241. Passed 11-16-15.)

171.12 LIMITATIONS.

- (A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the later of:
 - (i) Three (3) years after the tax was due or the return was filed, whichever is later; or

(ii) One (1) year after the conclusion of the qualifying deferral period, if any.

- (b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.
- (2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:
 - (a) Beginning on the date a person who is aggrieved by an assessment files with the Board of Tax Review the request described in Section 171.21. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Board of Tax Review did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.
 - or modify the assessment or any part of that assessment.

 (b) Ending the later of the sixtieth (60) day after the date on which the final determination of the Board of Tax Review becomes final or, if any party appeals from the determination of the Board of Tax Review, the sixtieth (60) day after the date on which the final determination of the Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.
- (B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.
- (C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 171.09.

- (D) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the City of Pataskala does not prejudice any claim for refund upon final determination of the appeal.
 - (2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Board of Tax Review, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the resultant amount due is less than the amount paid, a refund will be paid in the amount of the overpayment as provided by Section 171.09, with interest on that amount as provided by division (E) of Section 171.09.
- (E) No civil action to recover the City of Pataskala income tax or related penalties or interest shall be brought during either of the following time periods:
 - (1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;
 - (2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.
 (Ord. 2015-4241. Passed 11-16-15.)

171.13 AUDITS.

- (A) At or before the commencement of an audit, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during the audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of a tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.
- (B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.
- (C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

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

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

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

- (E) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.
- (F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest. (Ord. 2015-4241. Passed 11-16-15.)

171.14 SERVICE OF ASSESSMENT.

- (A) As used in this section:
 - "Last known address" means the address the Tax Administrator has at the time a document is originally sent by certified mail, or any address the Tax Administrator can ascertain using reasonable means such as the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC.
 - "Undeliverable address" means an address to which the postal service or an authorized delivery service under Section 5703.056 of the ORC is not able to deliver an assessment of the Tax Administrator, except when the reason for non-delivery is because the addressee fails to acknowledge or accept the assessment.
- (B) Subject to division (C) of this section, a copy of each assessment shall be served upon the person affected thereby either by personal service, by certified mail, or by a delivery service authorized under Section 5703.056 of the ORC. With the permission of the person affected by an assessment, the Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail.
 - (C) (1) (a) If certified mail is returned because of an undeliverable address, a Tax Administrator shall utilize reasonable means to ascertain a new last known address, including the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC. If the Tax Administrator is unable to ascertain a new last known address, the assessment shall be sent by ordinary mail and considered served. If the ordinary mail is subsequently returned because of an undeliverable address, the assessment remains appealable within 60 days after the assessment's postmark.
 - (b) Once the Tax Administrator or other the City of Pataskala official, or the designee of either, serves an assessment on the person to whom the assessment is directed, the person may protest the ruling of that assessment by filing an appeal with the local board of tax review within sixty (60) days after the receipt of service. The delivery of an assessment of the Tax Administrator under division (C)(1)(a) of this section is prima facie evidence that delivery is complete and that the assessment is served.

(2) If mailing of an assessment by the Tax Administrator by certified mail is returned for some cause other than an undeliverable address, the Tax Administrator shall resend the assessment by ordinary mail. The assessment shall show the date the Tax Administrator sends the assessment and include the following statement:

"This assessment is deemed to be served on the addressee under applicable law ten days from the date this assessment was mailed by the Tax Administrator as shown on the assessment, and all periods within which an appeal may be filed apply from and after that date."

Unless the mailing is returned because of an undeliverable address, the mailing of that information is prima facie evidence that delivery of the assessment was completed ten (10) days after the Tax Administrator sent the assessment by ordinary mail and that the assessment was served.

If the ordinary mail is subsequently returned because of an undeliverable address, the Tax Administrator shall proceed under division (C)(1)(a) of this section. A person may challenge the presumption of delivery and service under this division in accordance with division (D) of this section.

- (D) **(1)** A person disputing the presumption of delivery and service under division (C) of this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent by certified mail was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty percent (20%), as determined by voting rights, of the addressee's business.
 - (2) If a person elects to appeal an assessment on the basis described in division (D)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty (60) days after the initial contact by the Tax Administrator or other the City of Pataskala official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the local board of tax review.
- (E) Nothing in this section prohibits the Tax Administrator or the Tax Administrator's designee from delivering an assessment by a Tax Administrator by personal service.
- (F) Collection actions taken upon any assessment being appealed under division (C)(1)(b) of this section, including those on which a claim has been delivered for collection, shall be stayed upon the pendency of an appeal under this section. (Ord. 2015-4241. Passed 11-16-15.)

171.15 ADMINISTRATION OF CLAIMS.

- (A) As used in this section, "claim" means a claim for an amount payable to the City of Pataskala that arises pursuant to the City of Pataskala's income tax imposed in accordance with this Chapter.
- (B) Nothing in this Chapter prohibits the Tax Administrator from doing either of the following if such action is in the best interests of the municipal corporation:

(1) Compromise a claim;

- (2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments.
- (C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.
- (D) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall be to the benefit of only the parties to the compromise or agreement, and shall not eliminate or otherwise affect the liability of any other person.
- (E) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due. (Ord. 2015-4241. Passed 11-16-15.)

171.16 TAX INFORMATION CONFIDENTIAL.

- (A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Chapter is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the City of Pataskala as authorized by this Chapter. The Tax Administrator, or a designee thereof, may furnish copies of returns filed or otherwise received under this Chapter and other related tax information to the internal revenue service, the tax commissioner, and tax administrators of other municipal corporations.
- (B) This section does not prohibit the City of Pataskala from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers. (Ord. 2015-4241. Passed 11-16-15.0

171.17 FRAUD.

(A) No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by the City of Pataskala ordinance or state law to be filed with a the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the City of Pataskala or the Tax Administrator. (Ord. 2015-4241. Passed 11-16-15.)

171.18 INTEREST AND PENALTIES.

- (A) As used in this section:
 - (1) "Applicable law" means this Chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the City of Pataskala provided they impose or directly or indirectly address the levy, payment, remittance, or filing requirements of the City of Pataskala.
 - "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under Section 1274 of the Internal Revenue Code, for July of the current year.
 - "Income tax," "estimated income tax," and "withholding tax" means any income tax, estimated income tax, and withholding tax imposed by the City of Pataskala pursuant to applicable law, including at any time before January 1, 2016.
 - (4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number percent, plus five percent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.
 - "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a the Tax Administrator or the City of Pataskala by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.
 - (6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.
 - "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.
 - (8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.
 - "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.
- (B) (1) This section applies to the following:
 - (a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;
 - (b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the City of Pataskala on or after January 1, 2016.
 - (2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules and regulations, as adopted before January 1, 2016, of the City of Pataskala to which the return is to be filed or the payment is to be made.

(C) Should any taxpayer, employer, agent of the employer, or other payer for any reason fails, in whole or in part, to make timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the City of Pataskala any return required to be filed, the following penalties and interest shall apply:

(1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and

unpaid withholding tax.

(2) (a) With respect to unpaid income tax and unpaid estimated income tax, the City of Pataskala may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.

(b) With respect to any unpaid withholding tax, the City of Pataskala may impose a penalty not exceeding fifty percent (50%) of the

amount not timely paid.

- (3) With respect to returns other than estimated income tax returns, the City of Pataskala may impose a penalty of \$25 for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed \$150 for each failure.
- (D) Nothing in this section requires the City of Pataskala to refund or credit any penalty, amount of interest, charges, or additional fees that The City of Pataskala has properly imposed or collected before January 1, 2016.
- (E) Nothing in this section limits the authority of the City of Pataskala to abate or partially abate penalties or interest imposed under this section when the Tax Administrator determines, in the Tax Administrator's sole discretion, that such abatement is appropriate.
- (F) By the 31st day of October of each year the City of Pataskala shall publish the rate described in division (A) of this section applicable to the next succeeding calendar year.
- (G) The City of Pataskala may impose on the taxpayer, employer, any agent of the employer, or any other payer the City of Pataskala's post-judgment collection costs and fees, including attorney's fees. (Ord. 2017-4306. Passed 12-4-17.)

171.19 AUTHORITY OF TAX ADMINISTRATOR; VERIFICATION OF INFORMATION.

Authority.

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

- (1) (a) Exercise all powers whatsoever of an query nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths.
 - (b) The powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under the City of Pataskala's income tax ordinance;

(2) Appoint agents and prescribe their powers and duties;

Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;

- (4) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, for any reason overpaid. In addition, the Tax Administrator may investigate any claim of overpayment and, if the Tax Administrator finds that there has been an overpayment, make a written statement of the Tax Administrator's findings, and approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this Chapter;
- (5) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;
- (6) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 171.03;
- (7) (a) Make all tax findings, determinations, computations, and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, re-determine, or correct any tax findings, determinations, computations, or orders the Tax Administrator has made.
 - (b) If an appeal has been filed with the Board of Tax Review or other appropriate tribunal, the Tax Administrator shall not review, re-determine, or correct any tax finding, determination, computation, or order which the Tax Administrator has made, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;
- (8) Destroy any or all returns or other tax documents in the manner authorized by law;
- (9) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 171.04.

Verification of accuracy of returns and determination of liability

- (B) (1) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this Chapter for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this Chapter. Upon written request by the Tax Administrator, or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.
 - The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this Chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six (6) years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the City of Pataskala or for the withholding of such tax.
 - (3) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.
 - (4) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal or state income tax returns under this section shall fail to comply.

Identification information.

(C) (1) Nothing in this Chapter prohibits the Tax Administrator from requiring any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification

number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

- (2) (a) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty (30) days of making the request, nothing in this Chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to Section 171.18, in addition to any applicable penalty described in Section 171.99.
 - (b) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (C) of Section 171.19 within thirty (30) days after filing the next tax document requiring such identifying information, nothing in this Chapter prohibits the Tax Administrator from imposing a penalty pursuant to Section 171.18.
 - (c) The penalties provided for under divisions (C)(2)(a) and (b) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in Section 171.99 for a violation of Section 171.17 and any other penalties that may be imposed by the Tax Administrator by law. (Ord. 2015-4241. Passed 11-16-15.)

171.20 REQUEST FOR OPINION OF THE TAX ADMINISTRATOR.

- (A) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.
- (B) A taxpayer may submit a written request for an opinion of the Tax Administrator in accordance with the Rules and Regulations.
- (C) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.
- (D) The Tax Administrator may refuse to offer an opinion on any request received under this section. Such refusal is not subject to appeal.
- (E) An opinion of the Tax Administrator binds the Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.
- (F) An opinion of the Tax Administrator issued under this section is not subject to appeal. (Ord. 2015-4241. Passed 11-16-15.)

171.21 BOARD OF TAX REVIEW.

(A) (1) The Board of Tax Review shall consist of three (3) members. Two (2) members shall be appointed by the legislative authority of the City of Pataskala, but such appointees may not be employees, elected officials, or contractors with the City of Pataskala at any time during their term or in the five (5) years immediately preceding the date of appointment. One (1) member shall be appointed by the Mayor of the City of Pataskala. This member may be an employee of the City of Pataskala, but may not be the Director of Finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

(2) The term for members of the Board of Tax Review the City of Pataskala shall be two (2) years. There is no limit on the number of terms that a member may serve if the member is reappointed by the legislative authority. The board member appointed by the Mayor of the City of

Pataskala shall serve at the discretion of the Mayor.

(3) Members of the Board of Tax Review appointed by the legislative authority may be removed by the legislative authority by majority vote for malfeasance, misfeasance, or nonfeasance in office. To remove such a member, the legislative authority must give the member a copy of the charges against the member and afford the member an opportunity to be publicly heard in person or by counsel in the member's own defense upon not less than ten (10) days' notice. The decision by the legislative authority on the charges is final and not appealable.

(4) A member of the Board of Tax Review who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign

immediately by operation of law.

(5) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty (60) days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the Board of Tax Review shall impair the power and authority of the remaining members to exercise all the powers of the Board of Tax Review.

(6) If a member is temporarily unable to serve on the Board of Tax Review due to a conflict of interest, illness, absence, or similar reason, the appointing authority that appointed the member, shall appoint another individual to temporarily serve on the Board of Tax Review in the member's place. The appointment of such an individual shall be subject to the same requirements and limitations as are applicable to the appointment of the member

temporarily unable to serve.

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

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

- (D) The Board of Tax Review shall schedule a hearing to be held within sixty (60) days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board of Tax Review and may be represented by an attorney at law, certified public accountant, or other representative. The Board of Tax Review may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within one hundred twenty (120) days after the first day of the hearing unless the parties agree otherwise.
- (E) The Board of Tax Review may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The Board of Tax Review shall issue a final determination on the appeal within ninety (90) days after the Board of Tax Review's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the Board of Tax Review's final determination as provided in Section 5717.011 of the ORC.
- (F) The Board of Tax Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the ORC. Hearings requested by a taxpayer before a Board of Tax Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the ORC. (Ord. 2015-4241. Passed 11-16-15.)

171.22 AUTHORITY TO CREATE RULES AND REGULATIONS.

- (A) Nothing in this Chapter prohibits the legislative authority of the City of Pataskala, or the Tax Administrator pursuant to authority granted to the administrator by resolution or ordinance, to adopt rules to administer an income tax imposed by the City of Pataskala in accordance with this Chapter. Such rules shall not conflict with or be inconsistent with any provision of this Chapter. Taxpayers are hereby required to comply not only with the requirements of this chapter, but also to comply with the Rules and Regulations.
- (B) All rules adopted under this section shall be published and posted on the internet. (Ord. 2015-4241. Passed 11-16-15.)

171.23 RENTAL AND LEASED PROPERTY.

- (A) All property owners of real property located in the City of Pataskala, who rent or otherwise lease the same, or any part thereof, to any person for residential dwelling purposes, including apartments, rooms and other rental accommodations, during any calendar year, or part thereof, commencing with the effective date of this section, shall file with the Tax Administrator on or before the January 31 first following such calendar year a written report disclosing the name, address and also telephone number, if available, of each tenant known to have occupied on December 31 during such calendar year such apartment, room or other residential dwelling rental property.
- (B) The Tax Administrator may order the appearance before him, or his duly authorized agent, of any person whom he believes to have any knowledge of the name, address and telephone number of any tenant of residential rental real property in the City of Pataskala. The Tax Administrator, or his duly authorized agent, is authorized to examine any person, under oath, concerning the name, address and telephone number of any tenant of residential real property located in the City of Pataskala. The Tax Administrator, or his duly authorized agent, may compel the production of papers and records and the attendance of all personal before him, whether as parties or witnesses, whenever he believes such person has knowledge of the name, address and telephone number of any tenant of residential real property in the City of Pataskala.

- (C) Any property owner or person that violates one or more of the following shall be subject to Section 171.99 of this Chapter:
 - (1) Fails, refuses or neglects to timely file a written report required by subsection (a) hereof; or
 - (2) Makes an incomplete or intentionally false written report required by subsection (a) hereof; or
 - (3) Fails to appear before the Tax Administrator or any duly authorized agent and to produce and disclose any tenant information pursuant to any order or subpoena of the Tax Administrator as authorized in this section; or
 - (4) Fails to comply with the provisions of this section or any order or subpoena of the Tax Administrator.
 (Ord. 2015-4241. Passed 11-16-15.)

171.24 SAVINGS CLAUSE.

(A) This Chapter shall not apply to any person, firm or corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this Chapter or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein if found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this Chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Chapter. It is hereby declared to be the intention of Council that this Chapter would have been adopted had such unconstitutional, illegal or invalid sentence, or part hereof, not been included therein. (Ord. 2015-4241. Passed 11-16-15.)

171,25 COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE.

- (A) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of said taxes levied hereunder in the aforesaid periods are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Section 171.12 and Section 171.99 hereof.
- (B) Annual returns due for all or any part of the last effective year of this ordinance shall be due on the date provided in Sections 171.04 and Section 171.05 of this ordinance as though the same were continuing. (Ord. 2015-4241. Passed 11-16-15.)

171.26 ELECTION TO BE SUBJECT TO R.C. 718.80 TO 718.95

- (A) The City of Pataskala hereby adopts and incorporates herein by reference Sections 718.80 to 718.95 of the Ohio Revised Code for tax years beginning on or after January 1, 2018.
- (B) A taxpayer, as defined in division (C) of this section, may elect to be subject to Sections 718.80 to 718.95 of the Revised Code in lieu of the provisions of this Chapter.
- (C) "Taxpayer" has the same meaning as in section 718.01 of the Revised Code, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under Chapter 5745 of the Revised Code. "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer. (Ord. 2018-4319. Passed 4-16-18.)

171.99 VIOLATIONS; PENALTIES.

- (A) Whoever violates Section 171.17, division (A) of Section 171.16, or Section 171.04 by failing to remit the City of Pataskala income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars (\$1,000) or imprisonment for a term of up to six (6) months, or both. If the individual that commits the violation is an employee, or official, of the City of Pataskala, the individual is subject to discharge from employment or dismissal from office.
- (B) Any person who discloses information received from the Internal Revenue Service in violation of division (A) of Section 171.16 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars (\$5,000) plus the costs of prosecution, or imprisonment for a term not exceeding five (5) years, or both. If the individual that commits the violation is an employee, or official, of the City of Pataskala, the individual is subject to discharge from employment or dismissal from office.
- (C) Each instance of access or disclosure in violation of division (A) of Section 171.16 constitutes a separate offense.
 - (D) If not otherwise specified herein, no person shall:
 - (1) Fail, neglect or refuse to make any return or declaration required by this ordinance;
 - (2) File any incomplete or false return:
 - (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this Chapter;
 - (4) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers and federal and state income tax returns relating to the income or net profits of a taxpayer;
 - (5) Fail to appear before the Tax Administrator and to produce his books, records, papers or federal and state income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator;
 - (6) Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer;
 - (7) Fail to comply with the provisions of this ordinance or any order or subpoena of the Tax Administrator authorized hereby;
 - (8) Give to an employer false information as to his true name, correct social security number, and residence address, or fail to promptly notify an employer of any change in residence address and date thereof;
 - (9) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.
- (E) Any person who violates any of the provisions in Section 171.99 (D) shall be subject to the penalties provided for in Section 171.99 (A) of this Chapter. (Ord. 2015-4241. Passed 11-16-15.)

CHAPTER 181 Motor Vehicle License Tax

181.01 Tax levied. 181.02 Additional tax. 181.03 Supplemental tax.

CROSS REFERENCES Authority to levy - see Ohio R.C. 4504.17, 4504.171

181.01 TAX LEVIED.

- (a) There is hereby levied an annual license tax, in addition to the tax levied by Sections 4503.02, 4503.07 and 4503.18 of the Ohio Revised Code, upon the operation of motor vehicles on the public roads or highways of the City.
- (b) The tax hereby shall be at the rate of five dollars (\$5.00) per motor vehicle on all motor vehicles the district of registration of which, as defined in Section 4503.10 of the Ohio Revised Code, is in the municipal corporation of the City, and shall be in addition to the taxes at the rates specified in Sections 4502.04 and 4502.16 of the Ohio Revised Code, and subject to the reductions in the manner provided in Section 4502.011 and the exemptions provided in Sections 4502.16, 4502.17, 4502.171, 4503.41 and 4503.43 of the Ohio Revised Code. (Ord. 2000-3326. Passed 5-15-00.)

181.02 ADDITIONAL TAX.

- (a) There is hereby levied an annual license tax, in addition to the tax levied by Sections 4503.02, 4503.07 and 4503.18 of the Ohio Revised Code, upon the operation of motor vehicles on the public roads or highways of the City.
- (b) The tax hereby shall be at the rate of five dollars (\$5.00) per motor vehicle on all motor vehicles the district of registration of which, as defined in Section 4503.10 of the Ohio Revised Code, is in the municipal corporation of the City, and shall be in addition to the taxes at the rates specified in Sections 4502.04 and 4502.16 of the Ohio Revised Code, and subject to the reductions in the manner provided in Section 4502.011 and the exemptions provided in Sections 4502.16, 4502.17, 4502.171, 4503.41 and 4503.43 of the Ohio Revised Code. (Ord. 2000-3327. Passed 5-15-00.)

181.03 SUPPLEMENTAL TAX.

- (a) There is hereby levied an annual license tax, in addition to the tax levied by Sections 4503.02, 4503.07 and 4503.18 of the Ohio Revised Code, upon the operation of motor vehicles on the public roads or highways of the City of Pataskala.
- (b) The tax hereby shall be at the rate of five dollars (\$5.00) per motor vehicle on all motor vehicles the district of registration of which, as defined in Section 4503.10 of the Ohio Revised Code, is in the municipal corporation of the City of Pataskala, and shall be in addition to the taxes at the rates specified in Sections 4502.04 and 4502.16 of the Ohio Revised Code, and subject to the reductions in the manner provided in Section 4502.011 and the exemptions provided in Sections 4502.16, 4502.17, 4502.171, 4503.41, and 4503.43 of the Ohio Revised Code. (Ord. 2002-3461. Passed 12-16-02.)

CHAPTER 191 Hotel Tax

191.01	Definitions.	191.08	Penalties and interest.
191.02	Tax levied and rate.	191.09	Failure to collect and report
191.03	Transient guest to pay tax.		tax, assessment of tax by
	Tax exemptions.		Finance Director.
191.05	Tax to be separately stated	191.10	Refunds.
	and charged.	191.11	Collection of unpaid tax.
191.06	Records and inspection.	191.12	Separability.
191.07	Returns required.	191.99	Penalty.

191.01 DEFINITIONS.

As used in this chapter:

- (a) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered for a consideration to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.
- (b) "Transient guest" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.
- (c) "Hotel operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, mortgage in possession, licensee or any other capacity and who furnishes the lodging.
- (d) "Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or space or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.
- (e) "Rent" means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature, and also any amount for which the occupant is liable for the occupancy without any deduction.
- (f) "Finance Director" means the Finance Director for the City of Pataskala. (Ord. 2008-3876. Passed 10-20-08.)

191.02 TAX LEVIED AND RATE.

For the purpose of providing revenue with which to meet the needs of the City, there is hereby levied a tax of three percent on all transactions by which lodging by a hotel is or is to be furnished to transient guests. (Ord. 2008-3876. Passed 10-20-08.)

191.03 TRANSIENT GUEST TO PAY TAX

- (a) The tax imposed by this chapter shall be paid by the transient guest to the hotel operator, and each hotel operator shall collect from the transient guest the full and exact amount of the tax payable on the taxable lodging.
- (b) If the transaction is claimed to be exempt, the transient guest must furnish to the hotel operator, and the hotel operator must obtain from the transient guest, written proof of exempt status as set forth in Section 191.04 of this chapter. If no such proof of exempt status is obtained, is shall be presumed the tax applies.
- (c) No transient guest shall refuse to pay the full and exact tax as required by this chapter or present to the hotel operator false evidence indicating that the lodging as furnished is not subject to the tax. (Ord. 2008-3876. Passed 10-20-08.)

191.04 TAX EXEMPTIONS.

No tax shall be imposed under this chapter to lodging furnished to the State of Ohio, or any of its political subdivisions. (Ord. 2008-3876. Passed 10-20-08.)

191.05 TAX TO BE SEPARATELY STATED AND CHARGED.

- (a) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record, at the time when the occupancy is arranged or contracted and charged for, and upon every evidence of occupancy or any bill or statement or charge made for such occupancy issued or delivered by the hotel operator, and the tax shall be paid by the transient guest to the hotel operator as trustee for and on account of the City, and the hotel operator shall be liable for the collection and for the tax.
- (b) No hotel operator shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the hotel operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner provided in this chapter. (Ord. 2008-3876. Passed 10-20-08.)

191.06 RECORDS AND INSPECTION.

Each hotel operator shall keep complete and accurate records of lodging furnished, together with a record of the tax collected, which shall be the amount due under this chapter and shall keep all invoices and such other pertinent documents. If the hotel operator furnishes lodging not subject to the tax the hotel operator's records shall show the identity of the transient guest, if the sale was exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. Such records and other documents shall be open during business hours to inspection by the Finance Director, and shall be preserved for a period of four years, unless the Finance Director, in writing, consents to their destruction within that period, or by order requires that they be kept longer. (Ord. 2008-3876. Passed 10-20-08.)

191.07 RETURNS REQUIRED.

- (a) Each hotel operator shall, on or before the twentieth day of each month, make and file a return for the preceding month, showing the receipts from lodging furnished, the amount of tax due from the hotel operator to the city for the period covered by the return and such other information as the Finance Director deems necessary for the proper administration of the hotel tax. The return shall be signed by the hotel operator or an authorized agent. Returns shall be filed by mailing to the Finance Director, together with payment to the City of Pataskala in the amount of tax shown to be due. Failure to timely file and pay shall result in the assessment of a penalty as set forth in section 191.08 of this chapter.
- (b) The Finance Director may extend the time for making and filing returns. Additionally, the Finance Director, if it is deemed necessary in order to ensure the payment of the tax imposed by this chapter, may require returns and payment to be made for other than monthly periods. The Finance Director may authorize hotel operators whose tax liability is not such as to merit monthly returns, as determined by the Finance Director upon the basis of administrative costs to the city, to make and file returns at less frequent intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed. (Ord. 2008-3876. Passed 10-20-08.)

191.08 PENALTIES AND INTEREST.

- (a) <u>Original Delinquency.</u> A hotel operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty equal to ten percent of the amount of the tax, in addition to the tax.
- (b) <u>Continued Delinquency</u>. A hotel operator who fails to remit any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty equal to ten percent of the amount of the tax and previous penalty in addition to the tax and the ten percent penalty first imposed. An additional penalty equal to ten percent of the total tax and penalty of the previous thirty day period shall be added for each successive thirty-day period that the occupant remains delinquent.
- (c) <u>Fraud.</u> If the Finance Director determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty equal to twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (a) and (b) hereof.
- (d) <u>Interest.</u> In addition to the previous penalties imposed, a hotel operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (e) <u>Penalties During Pendency of Hearing.</u> No penalty provided under the terms of this chapter shall be imposed during the pendency of any hearing provided for in Section 191.09. (Ord. 2008-3876. Passed 10-20-08.)

191.09 FAILURE TO COLLECT AND REPORT TAX, ASSESSMENT OF TAX BY FINANCE DIRECTOR

- (a) The Finance Director may make an assessment of tax against any hotel operator who fails to file a return required by this chapter or fails to remit the proper amount of tax in accordance with this chapter. When information in the possession of the Finance Director indicates that the amount required to be collected is, or should be, greater than the amount remitted by the hotel operator, the Finance Director may upon the basis of test checks of a hotel operator's business for a representative period which are hereby authorized, determine the ratio which the tax required to be collected under this chapter bears to the hotel's lodging which determination shall be the basis of an assessment as provided in this chapter. Notice of such assessment of tax shall be made in the manner prescribed in this chapter.
- (b) Unless the hotel operator or transient guest, to whom a notice of assessment of tax is directed, files within thirty days after service, either personally or by registered or certified mail a petition in writing, verified under oath by the hotel operator, transient guest, or his authorized agent, having knowledge of the facts, setting forth with particularity the items of the tax assessment objected to, together with the reasons for such objections, said assessment shall become conclusive and the amount shall be due and payable, from the hotel operator of transient guests so assessed, to the City of Pataskala.
- (c) When a petition for reassessment of tax is filed, the Finance Director shall assign a time and place for the hearing and shall notify the petitioner thereof, by registered or certified mail, but the Finance Director may continue the hearings from time to time if necessary.
- (d) A penalty of fifteen percent (15%) shall be added to the amount of every assessment of tax made under this section. The Finance Director may adopt and promulgate rules and regulations providing for the remission of penalties added to such tax assessments made under this section.
- (e) When any hotel operator or transient guest files a petition for reassessment of tax as provided in this chapter, the tax assessment made by the Finance Director, together with penalties, shall become due and payable within three days after notice of the finding made at the hearing has been served, either personally or by certified mail, upon the party assessed. (Ord. 2008-3876. Passed 10-20-08.)

191.10 **REFUNDS.**

- (a) Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded as provided in subsections (b) and (c) of this section, provided a claim in writing stating under oath the specific grounds upon which the claim is founded, is filed with the Finance Director within three years of the date of payment.
- (b) A hotel operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Finance Director that the person from whom the tax has been collected was not a transient guest. However, neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient guest or credited to rent subsequently payable by the transient to the hotel operator.

- (c) A transient guest may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the City by filing of a claim, but only when the tax was paid by the transient guest directly to the Finance Director or when the transient guest having paid the tax to the hotel operator, establishes to the satisfaction of the Finance Director that the transient guest has been unable to obtain a refund from the hotel operator who collected the tax.
- (d) No refund shall be paid under the provisions of this section unless the claimant establishes his right by written records showing entitlement to a refund. (Ord. 2008-3876. Passed 10-20-08.)

191.11 COLLECTION OF UNPAID TAX.

- (a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties by the City.
- (b) The Finance Director is authorized to institute civil lawsuits to collect delinquent taxes due and owing the City by virtue of the provisions of this chapter.
- (c) The Finance Director is authorized to waive penalties and compromise tax liability under the provisions of this chapter. (Ord. 2008-3876. Passed 10-20-08.)

191.12 SEPARABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter or any part thereof is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter or any part thereof. Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentence, clause or phrase be declared unconstitutional. (Ord. 2008-3876. Passed 10-20-08.)

191.99 PENALTY.

Whoever violates any section of this chapter shall be guilty of a minor misdemeanor and shall be fined not more than five-hundred dollars or imprisoned not more than six months, or both. (Ord. 2008-3876. Passed 10-20-08.)

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CODIFIED ORDINANCES OF PATASKALA

PART THREE - TRAFFIC CODE

TITLE ONE - Administration

Chap. 301. Definitions.

Chap. 303. Enforcement, Impounding and Penalty. Chap. 305. Traffic Control.

TITLE THREE - Streets and Traffic Control Devices

Chap. 311. Street Obstructions and Special Uses.

Chap. 313. Traffic Control Devices.

TITLE FIVE - Vehicles

Chap. 331. Operation Generally.

Chap. 333. OVI; Willful Misconduct; Speed.

Chap. 335. Licensing; Accidents.

Chap. 337. Safety and Equipment. Chap. 339. Commercial and Heavy Vehicles.

Chap. 341. Commercial Drivers.

TITLE SEVEN - Parking

Chap. 351. Parking Generally.

TITLE NINE - Pedestrians, Bicycles and Motorcycles

Chap. 371. Pedestrians.

Chap. 373. Bicycles and Motorcycles.

Chap. 375. Snowmobiles, Off-Highway Motorcycles and All Purpose Vehicles.

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CODIFIED ORDINANCES OF PATASKALA

PART THREE - TRAFFIC CODE

TITLE ONE - Administration

Chap. 301. Definitions.

Chap. 303. Enforcement, Impounding and Penalty. Chap. 305. Traffic Control.

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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 defined - see TRAF. 375.01
School zones defined - see TRAF. 333.03(b)

301.01 MEANING OF WORDS AND PHRASES.

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

301.02 AGRICULTURAL TRACTOR.

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

301.03 ALLEY.

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

301.031 BEACON; HYBRID BEACON.

- (a) "Beacon" means a highway traffic signal with one or more signal sections that operate in a flashing mode. (ORC 4511.01(KKK))
- (b) "Hybrid beacon" means a type of beacon that is intentionally placed in a dark mode between periods of operation where no indications are displayed and, when in operation, displays both steady and flashing traffic control signal indications. (ORC 4511.01(LLL))

301.04 BICYCLE; MOTORIZED BICYCLE; MOPED; ELECTRIC BICYCLE.

- (a) "Bicycle" means every device, other than a device that is designed solely for use as a play vehicle by a child, that is propelled solely by human power upon which a person may ride, and that has two or more wheels, any of which is more than fourteen inches in diameter. (ORC 4511.01(G))
- (b) "Motorized bicycle" or "moped" means any vehicle having either two tandem wheels or one wheel in the front and two wheels in the rear, that may be pedaled, and that is equipped with a helper motor of not more than fifty cubic centimeters piston displacement that produces not more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface.

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

- (c) "Electric bicycle" means a "class 1 electric bicycle", a "class 2 electric bicycle", or a "class 3 electric bicycle" as defined in this section. (ORC 4511.01(RRR))
 - (1) "Class 1 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty miles per hour. (ORC 4511.01(SSS))
 - (2) "Class 2 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that may provide assistance regardless of whether the rider is pedaling and is not capable of providing assistance when the bicycle reaches the speed of twenty miles per hour. (ORC 4511.01(TTT))
 - (3) "Class 3 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty-eight miles per hour. (ORC 4511.01(UUU))

301.05 BUS.

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

301.06 BUSINESS DISTRICT.

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

301.07 COMMERCIAL TRACTOR.

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

301.08 CONTROLLED-ACCESS HIGHWAY.

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

301.09 CROSSWALK.

"Crosswalk" means:

- (a) That part of a roadway at intersections ordinarily included within the real or projected prolongation of property lines and curb lines or, in the absence of curbs, the edges of the traversable roadway;
- (b) Any portion of a roadway at an intersection or elsewhere, distinctly indicated for pedestrian crossing by lines or other markings on the surface;

(c) Notwithstanding subsections (a) and (b) hereof, there shall not be a crosswalk where authorized signs have been placed indicating no crossing. (ORC 4511.01(LL))

301.10 DRIVER OR OPERATOR.

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

301.11 EMERGENCY VEHICLE.

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

301.12 EXPLOSIVES.

"Explosives" means any chemical compound or mechanical mixture that is intended for the purpose of producing an explosion that contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by a detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, or of destroying life or limb.

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

301.13 EXPRESSWAY.

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

301.14 FLAMMABLE LIQUID.

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

301.15 FREEWAY.

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

301.16 GROSS WEIGHT.

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

301.161 HIGHWAY MAINTENANCE VEHICLE.

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

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, 4511.712, 4511.713, 4511.72, 4511.73, 4511.73, 4511.763, 4511.771, 4511.78 or 4511.84;
- (b) A violation of division (A)(2) of Ohio R.C. 4511.17, divisions (A) to (D) of Ohio R.C. 4511.51, or division (A) of Ohio R.C. 4511.74;
- (c) A violation of any provision of Ohio R.C. 4511.01 to 4511.76 for which no penalty otherwise is provided in the section that contains the provision violated;
- (d) A violation of Ohio R.C. 4511.214.
- (e) A violation of a municipal ordinance that is substantially similar to any section or provision set forth or described in subsection (a) to (d) of this section. (ORC 4511.01(III))

301.26 PRIVATE ROAD OR DRIVEWAY.

- (a) "Private road or driveway" means every way or place in private ownership used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons. (ORC 4511.01(DD))
- (b) "Private road open to public travel" means a private toll road or road, including any adjacent sidewalks that generally run parallel to the road, within a shopping center, airport, sports arena, or other similar business or recreation facility that is privately owned but where the public is allowed to travel without access restrictions. "Private road open to public travel" includes a gated toll road but does not include a road within a private gated property where access is restricted at all times, a parking area, a driving aisle within a parking area, or a private grade crossing. (ORC 4511.01(OOO))

301.27 PUBLIC SAFETY VEHICLE.

"Public safety vehicle" means any of the following:

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

- (d) Vehicles used by fire departments, including motor vehicles when used by volunteer fire fighters responding to emergency calls in the fire department service when identified as required by the Ohio Director of Public Safety.

 Any vehicle used to transport or provide emergency medical service to an ill or injured person, when certified as a public safety vehicle, shall be considered a public safety vehicle when transporting an ill or injured person to a hospital regardless of whether such vehicle has already passed a hospital.

 (ORC 4511.01(E))
- (e) Vehicles used by the Commercial Motor Vehicle Safety Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission as specified in Ohio R.C. 5503.34.

301.28 RAILROAD.

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

301.29 RAILROAD SIGN OR SIGNAL.

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

301.30 RAILROAD TRAIN.

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

301.31 RESIDENCE DISTRICT.

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

301.32 RIGHT OF WAY.

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

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

301.321 ROAD SERVICE VEHICLE.

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

301.33 ROADWAY.

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

301.34 SAFETY ZONE.

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

301.35 SCHOOL BUS.

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

(ORC 4511.01(F), (FFF))

301.36 SEMITRAILER.

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

301.361 SHARED-USE PATH.

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

301.37 SIDEWALK.

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

301.38 STATE ROUTE.

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

301.39 STOP (WHEN REQUIRED).

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

301.40 STOPPING OR STANDING.

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

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

301.41 STOP INTERSECTION.

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

301.42 STREET OR HIGHWAY; ARTERIAL STREET.

- (a) "Street" or "highway" are synonymous and mean the entire width between the boundary lines of every way open to the use of the public as a thoroughfare for purposes of vehicular travel. (ORC 4511.01(BB))
- (b) "Arterial street" means any United States or State numbered route, controlled access highway or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways. (ORC 4511.01(CCC))

301.43 THROUGH STREET OR HIGHWAY.

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

301.44 THRUWAY.

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

301.45 TRAFFIC.

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

301.46 TRAFFIC CONTROL 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))

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CHAPTER 303 Enforcement, Impounding and Penalty

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CROSS REFERENCES

See sectional histories for similar State law Disposition of unclaimed vehicles - see Ohio R.C. 737.32, 4513.62 et seq.

Citations for minor misdemeanors - see Ohio R.C. 2935.26 et seq. Power of trial court of record to suspend or revoke license for certain violations - see Ohio R.C. 4507.16, 4507.34

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

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

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

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

Exceptions for emergency or public safety vehicles - see TRAF.

331.20, 333.06

303.01 COMPLIANCE WITH LAWFUL ORDER OF POLICE OFFICER; FLEEING.

- (a) No person shall fail to comply with any lawful order or direction of any police officer invested with authority to direct, control or regulate traffic.
- (b) No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop.

- (c) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer. A violation of subsection (a) is a misdemeanor of the first degree. A violation of subsection (b) is a misdemeanor of the first degree, unless the jury or judge as trier of fact finds any one of the following by proof beyond a reasonable doubt:
 - (1) In committing the offense, the offender was fleeing immediately after the commission of a felony;
 - (2) The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property;
 - (3) The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.
- (d) In addition to any other sanction imposed for a violation of subsection (a) of this section or a misdemeanor violation of subsection (b) of this section, the court shall impose a class five suspension from the range specified in Ohio R.C. 4510.02(A)(5). If the offender previously has been found guilty of an offense under this section, in addition to any other sanction imposed for the offense, the court shall impose a class one suspension as described in division (A)(1) of that section. The court may grant limited driving privileges to the offender on a suspension imposed for a misdemeanor violation of this section as set forth in Ohio R.C. 4510.021. No judge shall suspend the first three years of suspension under a class two suspension of an offender's license, permit or privilege required by this division on any portion of the suspension under a class one suspension of an offender's license, permit, or privilege required by this subsection. (ORC 2921.331)

303.02 TRAFFIC DIRECTION IN EMERGENCIES; OBEDIENCE TO SCHOOL GUARD.

- (a) Police officers shall direct or regulate traffic in accordance with the provisions of this Traffic Code, provided that, in the event of fire or other emergency or to expedite traffic or safeguard pedestrians, they are authorized to direct traffic as conditions may require notwithstanding the provisions of this Traffic Code. Firemen, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity. The direction of traffic may be by word or audible signal, by gesture or visible signal or by any combination thereof. No person shall fail to comply with any lawful order or direction of any police officer or fireman issued pursuant to this section.
- (b) No person shall fail to comply with any lawful order or direction of any school crossing guard invested with authority to direct, control or regulate traffic in the vicinity of the school to which such guard may be assigned.
- (c) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

303.03 OFFICER MAY REMOVE IGNITION KEY.

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

303.04 ROAD WORKERS, MOTOR VEHICLES AND EQUIPMENT EXCEPTED.

- (a) The provisions of this Traffic Code do not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway within an area designated by traffic control devices, but apply to such persons and vehicles when traveling to or from such work.
- (b) The driver of a highway maintenance vehicle owned by this state or any political subdivision of this state, while the driver is engaged in the performance of official duties upon a street or highway, provided the highway maintenance vehicle is equipped with flashing lights and such other markings as are required by law, and such lights are in operation when the driver and vehicle are so engaged, shall be exempt from criminal prosecution for violations of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 and Ohio R.C. 4511.66 and 5577.01 to 5577.09.
 - (c) This section does not exempt a driver of as highway maintenance vehicle from civil liability arising from a violation of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 or Ohio R.C. 4511.66 or 5577.01 to 5577.09.
 - (2) This section does not exempt a driver of a vehicle who is not a state employee and who is engaged in the transport of highway maintenance equipment from criminal liability for a violation of Ohio R.C. 5577.01 to 5577.09.
- (d) As used in this section, "engaged in the performance of official duties" includes driving a highway maintenance vehicle to and from the manufacturer or vehicle maintenance provider and transporting a highway maintenance vehicle, equipment, or materials to and from a work location. (ORC 4511.04)

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

- (a) Ohio R.C. 4511.12, 4511.13, 4511.131, 4511.132, 4511.14, 4511.202, 4511.21, 4511.21, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.62, 4511.66, 4511.68, 4511.681 and 4511.69 and all sections of this Traffic Code or other municipal ordinances that are substantially equivalent to the sections listed above, do not apply to the driver of an emergency vehicle or public safety vehicle is responding to an emergency call, is equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and if the driver of the vehicle is giving an audible signal by siren, exhaust whistle or bell. This section does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway. (ORC 4511.041)
- (b) Ohio R.C. 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.35, 4511.36, 4511.37, 4511.38 and 4511.66, and all sections of this Traffic Code or other municipal ordinances that are substantially equivalent to the sections listed above, do not apply to a coroner, deputy coroner, or coroner's investigator operating a motor vehicle in accordance with Ohio R.C. 4513.171. This section does not relieve a coroner, deputy coroner, or coroner's investigator operating a motor vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway. (ORC 4511.042)

303.05 APPLICATION TO PERSONS RIDING, DRIVING ANIMALS UPON ROADWAY.

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

303.06 FREEWAY USE PROHIBITED BY PEDESTRIANS, BICYCLES AND ANIMALS.

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

- As a pedestrian, occupy any space within the limits of the right-of-way of a freeway, except: in a rest area; on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for pedestrian use; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle; or to obtain assistance;
- Occupy any space within the limits of the right of way of a freeway, with: an animal-drawn vehicle; a ridden or led animal; herded animals; a pushcart; a bicycle, except on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for bicycle use; an electric bicycle; a bicycle with motor attached; a motor driven cycle with a motor which produces not to exceed five brake horsepower; an agricultural tractor; farm machinery; except in the performance of public works or official duties.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.051)

303.07 APPLICATION TO DRIVERS OF GOVERNMENT VEHICLES.

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

303.08 IMPOUNDING OF VEHICLES; REDEMPTION.

- (a) Police officers are authorized to provide for the removal of a vehicle under the following circumstances:
 - (1) When any vehicle is left unattended upon any street, bridge or causeway and is so illegally parked so as to constitute a hazard or obstruction to the normal movement of traffic, or so as to unreasonably interfere with street cleaning or snow removal operations.

- (2) When any vehicle or "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63 is left on private property for more than forty-eight consecutive hours without the permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road or highway, for forty-eight consecutive hours or longer, without notification to the Police Chief of the reasons for leaving such vehicle in such place. Prior to disposal of an "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63, it shall be photographed by a law enforcement officer.
- When any vehicle has been stolen or operated without the consent of the owner and is located upon either public or private property.
- (4) When any vehicle displays illegal license plates or fails to display the current lawfully required plates and is located upon any public street or other property open to the public for purposes of vehicular travel or parking.
- When any vehicle has been used in or connected with the commission of a felony and is located upon either public or private property.
- (6) When any vehicle has been damaged or wrecked so as to be inoperable or violates equipment provisions of this Traffic Code whereby its continued operation would constitute a condition hazardous to life, limb or property, and is located upon any public street or other property open to the public for purposes of vehicular travel or parking.
- (7) When any vehicle is left unattended either on public or private property due to the removal of an ill, injured or arrested operator, or due to the abandonment thereof by the operator during or immediately after pursuit by a law enforcement officer.
- (8) When any vehicle has been operated by any person who has failed to stop in case of an accident or collision and is located either on public or private property.
- (9) When any vehicle has been operated by any person who is driving without a lawful license or while his license has been suspended or revoked and is located upon a public street or other property open to the public for purposes of vehicular travel or parking.
- (10) When any vehicle is found for which two or more citation tags for violations of this Traffic Code have been issued and the owner or operator thereof has failed to respond to such citation tags as lawfully required, and is located upon a public street or other property open to the public for purposes of vehicular travel or parking.
- (b) Any vehicle removed under authority of subsection (a)(2) hereof shall be ordered into storage and/or disposed of as provided under Ohio R.C. 4513.60 et seq. Any other vehicle removed under authority of this section shall be ordered into storage and the Municipal police shall forthwith notify the registered vehicle owner of the fact of such removal and impounding, reasons therefor and the place of storage. Any person desiring to redeem an impounded vehicle shall appear at the police offices to furnish satisfactory evidence of identity and ownership or right to possession. Prior to issuance of a release form, the claimant, owner or operator shall either pay the amount due for any fines for violations on account of which such vehicle was impounded or, as the court may require, post a bond in an amount set by the court, to appear to answer to such violations. The pound operator shall release such vehicle upon the receipt of the release form and payment of all towage and storage charges.

- (c) No owner or operator shall remove an impounded vehicle from the place of storage without complying with the above procedure. Possession of a vehicle which has been impounded and unlawfully taken from the place of storage, by the owner or operator, shall constitute prima-facie evidence that it was so removed by the owner or operator.
- (d) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

303.081 IMPOUNDING VEHICLES ON PRIVATE RESIDENTIAL OR AGRICULTURAL PROPERTY.

- (a) (1) The Chief of Police upon complaint of any person adversely affected may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in Ohio R.C. 4513.63, that has been left on private residential or private agricultural property for at least four hours without the permission of the person having the right to the possession of the property. The Chief of Police, upon complaint of a repair garage or place of storage, may order into storage any motor vehicle, other than an abandoned junk motor vehicle, that has been left at the garage or place of storage for a longer period than that agreed upon. When ordering a motor vehicle into storage pursuant to this section, the Chief of Police may arrange for the removal of the motor vehicle by a towing service and shall designate a storage facility.
 - (2) A towing service towing a motor vehicle under subsection (a)(1) of this section shall remove the motor vehicle in accordance with that subsection. The towing service shall deliver the motor vehicle to the location designated by the Chief of Police not more than two hours after the time it is removed from the private property, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.
 - (3) Subject to subsection (b) of this section, the owner of a motor vehicle that has been removed pursuant to this subsection may recover the vehicle only in accordance with subsection (d) of this section.
 - (4) As used in this section "private residential property" means private property on which is located one or more structures that are used as a home, residence or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures. "Private residential property" does not include any private property on which is located one or more structures that are used as a home, residence or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.
- (b) If the owner or operator of a motor vehicle that has been ordered into storage pursuant to subsection (a)(1) of this section arrives after the motor vehicle has been prepared for removal, but prior to its actual removal from the property, the towing service shall give the owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the motor vehicle established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25, in order to obtain release of the motor vehicle. However, if the vehicle is within a municipal corporation and the municipal corporation has established a vehicle removal fee, the towing service shall give

the owner or operator oral or written notification that the owner or operator may pay not more than one-half of that fee to obtain release of the motor vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction.

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

- (c) (1) The Chief of Police shall maintain a record of motor vehicles that the Chief orders into storage pursuant to subsection (a)(1) of this section. The record shall include an entry for each such motor vehicle that identifies the motor vehicle's license number, make, model and color, the location from which it was removed, the date and time of the removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. The Chief of Police shall provide any information in the record that pertains to a particular motor vehicle to any person who, either in person or pursuant to a telephone call, identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.
 - (2) Any person who registers a complaint that is the basis of the Police Chief's order for the removal and storage of a motor vehicle under subsection (a)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.
- (d) (1) The owner or lienholder of a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section may reclaim it upon both of the following:
 - A. Payment of all applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 or, if the vehicle was towed within a municipal corporation that has established fees for vehicle removal and storage, payment of all applicable fees established by the municipal corporation.
 - B. Presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle, a certificate of registration for the motor vehicle, or a lease agreement.
 - When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.
 - (2) Upon presentation of proof of ownership as required under subsection (d)(1)B. of this section, the owner of a motor vehicle that is ordered into storage under subsection (a)(1) of this section may retrieve any personal items from the motor vehicle without retrieving the vehicle and without paying any fee. However, a towing service or storage facility may charge an after-hours retrieval fee established by the Public Utilities Commission in

rules adopted under Ohio R.C. 4921.25 if the owner retrieves the personal items after hours, unless the towing service or storage facility fails to provide the notice required under division (B)(3) of Ohio R.C. 4513.69, if applicable. The owner of a motor vehicle shall not do either of the following:

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

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

- (3) If a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by Ohio R.C. 4513.61 and 4513.62 apply.
- (e) (1) No person shall remove, or cause the removal of, any motor vehicle from any private residential or private agricultural property other than in accordance with subsection (a)(1) of this section or Ohio R.C. 4513.61 to 4513.65.
 - (2) No towing service or storage facility shall fail to comply with the requirements of this section.
- (f) This section does not apply to any private residential or private agricultural property that is established as a private tow-away zone in accordance with Section 303.082.
- (g) Whoever violates subsection (e) of this section is guilty of a minor misdemeanor. (ORC 4513.60)

303.082 PRIVATE TOW-AWAY ZONES.

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

- D. The telephone number and the address of the place from which a towed vehicle may be recovered at any time during the day or night;
- E. A statement that the failure to recover a towed vehicle may result in the loss of title to the vehicle as provided in division (B) of Ohio R.C. 4505.101.

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

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

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

- (d) Prior to towing a vehicle under subsection (b) of this section, a towing service shall make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked on private property in violation of a private tow-away zone established under subsection (a) of this section.
 - The towing service shall record the time and date of the photographs taken under this section. The towing service shall retain the photographs and the record of the time and date, in electronic or printed form, for at least thirty days after the date on which the vehicle is recovered by the owner or lienholder or at least two years after the date on which the vehicle was towed, whichever is earlier.
 - (2) A towing service shall deliver a vehicle towed under subsection (b) of this section to the location from which it may be recovered not more than two hours after the time it was removed from the private tow-away zone, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.
- (e) (1) If an owner of a private property that is established as a private tow-away zone in accordance with subsection (a) of this section causes the removal of a vehicle from that property by a towing service under subsection (b) of this section, the towing service, within two hours of removing the vehicle, shall provide notice to the Police Department concerning all of the following:
 - A. The vehicle's license number, make, model and color;
 - B. The location from which the vehicle was removed:
 - C. The date and time the vehicle was removed;
 - D. The telephone number of the person from whom the vehicle may be recovered;
 - E. The address of the place from which the vehicle may be recovered.

 (2) The Chief of Police shall maintain a record of any vehicle removed from private property in the Chief's jurisdiction that is established as a private tow-away zone of which the Chief has received notice under this section. The record shall include all information submitted by the towing service. The Chief shall provide any information in the record that pertains to a particular vehicle to a person who, either in person or pursuant to a telephone call, identifies self as the owner, operator or lienholder of the vehicle, and requests information pertaining to the vehicle.
- (f) When a vehicle is removed from private property in accordance with this section, within three days of the removal, the towing service or storage facility from which the vehicle may be recovered shall cause a search to be made of the records of the Bureau of Motor Vehicles to ascertain the identity of the owner and any lienholder of the motor vehicle. The Registrar of Motor Vehicles shall insure that such information is provided in a timely manner. Subject to subsection (f)(4) of this section, the towing service or storage facility shall send notice to the vehicle owner and any known lienholder as follows:

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

- (3) When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.
- (4) Upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement, the owner of a vehicle that is removed under authority of subsection (b) of this section may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. The owner of the vehicle shall not retrieve any personal items from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability. For purposes of subsection (g)(4) of this section, "personal items" do not include any items that are attached to the vehicle.
- (h) No person shall remove, or cause the removal of any vehicle from private property that is established as a private tow-away zone under this section, or store such a vehicle other than in accordance with this section, or otherwise fail to comply with any applicable requirement of this section.
- (i) This section does not affect or limit the operation of Ohio R.C. 4513.60 or Ohio R.C. 4513.61 to 4613.65 as they relate to property other than private property that is established as a private tow-away zone under subsection (a) of this section.
 - (j) Whoever violates subsection (h) of this section is guilty of a minor misdemeanor.
- (k) As used in this section, "owner of a private property" or "owner of the private property" includes, with respect to a private property, any of the following:
 - (1) Any person who holds title to the property;
 - Any person who is a lessee or sublessee with respect to a lease or sublease agreement for the property;
 - (3) A person who is authorized to manage the property;
 - (4) A duly authorized agent of any person listed in subsections (k)(1) to (3) of this section. (ORC 4513.601)

303.083 RELEASE OF VEHICLE; RECORDS; CHARGES.

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

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

(a) As used in this section "junk motor vehicle" means any motor vehicle which is three years old or older; extensively damaged, such damage including but not limited to any of the following: Missing wheels, tires, motor or transmission; apparently inoperable; and having a fair market value of one thousand five hundred dollars (\$1,500) or less, that is left uncovered in the open on private property for more than seventy-two hours with the permission of the person having the right to the possession of the property, except if the person is operating a junk yard or scrap metal processing facility licensed under authority of Ohio R.C. 4737.05-4737.12 or regulated under authority of the Municipality.

- (b) As used in this section "Nuisance Vehicle" means any motor vehicle which is parked in the open and which appears to be in a condition of neglect or disrepair. Evidence of a motor vehicle being in a condition of neglect or disrepair includes, but is not limited to:
 - (1) Being a breeding ground or harbor for mosquitoes, other insects, rodents, feral cats, or other pests;

(2) Being a point of growth of weeds or other vegetation;

- Being a point of accumulation, of garbage, food waste, animal waste, or other rotten or putrescent matter of any kind, construction debris, or general household refuse;
- (4) Being so situated or located that there is danger of it failing or turning over, or posing a danger to the public;

(5) Having flat or missing tires;

(6) Having an expired or missing license plate:

- Having viable conditions or defects that would make it impossible, unsafe or illegal to be operated on a highway;
- (8) Having been otherwise, declared a health and safety hazard or a public nuisance.
- (c) (1) No person shall willfully leave any vehicle or an "abandoned junk motor vehicle or a nuisance vehicle" on private property for more than seventy-two consecutive hours without the permission of the person having the right to the possession of the property or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road or highway, for forty-eight consecutive hours or longer, without notification to the Police Chief of the reasons for leaving the vehicle in such place.
 - (2) For purposes of this section, the fact that a vehicle has been so left without permission or notification is prima-facie evidence of abandonment. Nothing contained in this section shall invalidate the provisions of other ordinances regulating or prohibiting the abandonment of motor vehicles on streets, highways, public property or private property within the Municipality.
- (d) Whoever violates this section is guilty of a minor misdemeanor and shall also be assessed any costs incurred by the Municipality in disposing of an abandoned junk motor vehicle that is the basis of the violation, less any money accruing to the Municipality from this disposal of the vehicle. (Ord. 2008-3853. Passed 6-2-08.)

303.10 LEAVING JUNK OR NUISANCE VEHICLES ON PRIVATE PROPERTY WITH PERMISSION OF OWNER.

- (a) As used in this section "junk motor vehicle" means any motor vehicle which is three years old or older; extensively damaged, such damage including but not limited to any of the following: Missing wheels, tires, motor or transmission; apparently inoperable; and having a fair market value of one thousand five hundred dollars (\$1,500) or less, that is left uncovered in the open on private property for more than seventy-two hours with the permission of the person having the right to the possession of the property, except if the person is operating a junk yard or scrap metal processing facility licensed under authority of Ohio R.C. 4737.05-4737.12 or regulated under authority of the Municipality.
- (b) As used in this section "Nuisance Vehicle" means any motor vehicle which is parked in the open and which appears to be in a condition of neglect or disrepair. Evidence of a motor vehicle being in a condition of neglect or disrepair includes, but is not limited to:

- (1) Being a breeding ground or harbor for mosquitoes, other insects, rodents, feral cats, or other pests;
- (2) Being a point of growth of weeds or other vegetation;
- Being a point of accumulation, of garbage, food waste, animal waste, or other rotten or putrescent matter of any kind, construction debris, or general household refuse:
- Being so situated or located that there is danger of it falling or turning over, or posing a danger to the public;
- (5) Having flat or missing tires;
- (6) Having an expired or missing license plate;
- Having viable conditions or defects that would make it impossible, unsafe or illegal to be operated on a highway;
- (8) Having been otherwise, declared a health and safety hazard or a public nuisance.
- (c) No person shall leave any junk or nuisance vehicle that is left unconcealed by means of buildings, fencing or hedges which are a minimum of 72 inches in height and completely opaque at the time of installation, in the open, on private property for more than seventy-two hours with the permission of the person having the right to the possession of the property, except if the person is operating a junk yard or scrap metal processing facility licensed under authority of Ohio R.C. 4737.05 to 4737.12; or regulated under authority of the Municipality; or if the property on which the motor vehicle is left is not subject to licensure or regulation by any governmental authority, unless the person having the right to the possession of the property can establish that the motor vehicle is part of a bona fide commercial operation.
 - (d) Council, the Chief of Police or the Municipal Zoning Authority, may send notice by any method of tracking delivery including but not limited to, certified mail with return receipt requested, certificate of mailing, delivery by an express service with signature required, as well as one mailing by first class mail and posting of violation on the property to the person having the right to the possession of the property on which a junk motor vehicle is left, that within ten days of receipt of the notice, the junk motor vehicle either shall be concealed by being housed in a garage or other suitable structure, or be completely screened from view behind a fence or dense hedge that is 95% opaque at all times, or shall be removed from the property.
 - (2) No person shall willfully leave a junk motor vehicle in the open for more than ten days after receipt of a notice as provided in this section. The fact that a junk motor vehicle is so left is prima-facie evidence of willful failure to comply with the notice. Each subsequent period of ten days that a junk motor vehicle continues to be so left constitutes a separate offense.

(e) <u>Violations and Penalty.</u>

- (1) Whenever Council, the Chief of Police or the Municipal Zoning Authority determines that there has been a violation of Section 303.09 or 303.10 of the code, or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed to the person responsible for the violation as specified:
- (2) Notice shall be in accordance with all of the following:
 - A. Be in written form.
 - B. Include the address or a description of the real estate sufficient for identification.

- C. Include a statement of the violation or violations and why the notice is being issued.
- D. Include a correction order to correct the violation within 10 days within the provisions of Section 303.09 through 303.10.
- E. Notice shall be posted on the property immediately.
- F. Notice shall be mailed by First Class Mail to the occupant and the owner of record (if a different address) and to any mortgage company holding a mortgage lien on the property. Certified mail, return receipt mail, UPS or other method of documenting delivery shall also be sent to the owner of record.
- (3) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor on a first offense. If the offender previously has been convicted of or pleaded guilty to one violation of this section, whoever violates this section is guilty of a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, whoever violates this section is guilty of a misdemeanor of the third degree.
- (f) Persons may store any collector's vehicle as defined below on private property with the permission of the person having the right to the possession of the property; except that such person having such permission shall conceal, by means of buildings, fencing or hedges which are a minimum of 72 inches in height and completely opaque at the time of installation.
 - (2) "Collector's vehicle" means any motor vehicle or agricultural tractor or traction engine that is of special interest, that has a fair market value of one hundred dollars or more, whether operable or not, and that is owned, operated, collected, preserved, restored, maintained, or used essentially as a collector's item, leisure pursuit, or investment, but not as the owner's principal means of transportation. "Licensed collector's vehicle" means a collector's vehicle, other than an agricultural tractor or traction engine, that displays current, valid license tags issued under Section 4503.45 of the Revised Code, or a similar type of motor vehicle that displays current, valid license tags issued under substantially equivalent provisions in the laws of other states. (Ord. 2008-3853. Passed 6-2-08.)

303.11 PROVIDING FALSE INFORMATION TO POLICE OFFICER.

- (a) No person shall knowingly present, display or orally communicate a false name, social security number or date of birth to a law enforcement officer who is in the process of issuing to the person a traffic ticket or complaint.
- (b) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 4513.361)

303.99 GENERAL TRAFFIC CODE PENALTIES.

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

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

Classification of	Maximum Term	Maximum
<u>Misdemeanor</u>	of Imprisonment	_Fine_
First degree	180 days	\$1,000.00
Second degree	90 days	750.00
Third degree	60 days	500.00
Fourth degree	30 days	250.00
Minor	No imprisonment	150.00
(ORC 2929.24; 2929.28)	•	

303.991 COMMITTING AN OFFENSE WHILE DISTRACTED PENALTY.

- (a) As used in this section and each section of the Traffic Code where specified, all of the following apply:
 - (1) "Distracted" means doing either of the following while operating a vehicle:
 - A. Using a handheld electronic wireless communications device, as defined in Ohio R.C. 4511.204 except when utilizing any of the following:
 - 1. The device's speakerphone function;
 - 2. A wireless technology standard for exchanging data over short distances;
 - 3. A "voice-operated or hands-free" device that allows the person to use the electronic wireless communications device without the use of either hand except to activate, deactivate, or initiate a feature or function;
 - 4. Any device that is physically or electronically integrated into the motor vehicle.
 - B. Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.
 - "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of Section 331.43.
 - "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage or a circumstance affecting the health or safety of individuals. As used in subsection (a)(3) of this section:
 - A. "Utility" means an entity specified in division (A), (C), (D), (E) or (G) of Ohio R.C. 4905.03.
 - B. "Utility service vehicle" means a vehicle owned or operated by a utility.
- (b) If an offender violates any section of this Traffic Code which provides for an enhanced penalty for an offense committed while distracted and the distracting activity is a contributing factor to the commission of the violation, the offender is subject to the applicable penalty for the violation and, notwithstanding Ohio R.C. 2929.28, is subject to an additional fine of not more than one hundred dollars (\$100.00) as follows:

- (1) Subject to Traffic Rule 13, if a law enforcement officer issues an offender a ticket, citation or summons for a violation of any section of the Traffic Code that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the offender may enter a written plea of guilty and waive the offender's right to contest the ticket, citation or summons in a trial provided that the offender pays the total amount of the fine established for the violation and pays the additional fine of one hundred dollars (\$100.00).
 - In lieu of payment of the additional fine of one hundred dollars (\$100.00), the offender instead may elect to attend a distracted driving safety course, the duration and contents of which shall be established by the Ohio Director of Public Safety. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of one hundred dollars (\$100.00), so long as the offender submits to the court both the offender's payment in full and such written evidence.
- (2) If the offender appears in person to contest the ticket, citation or summons in a trial and the offender pleads guilty to or is convicted of the violation, the court, in addition to all other penalties provided by law, may impose the applicable penalty for the violation and may impose the additional fine of not more than one hundred dollars (\$100.00).
 - If the court imposes upon the offender the applicable penalty for the violation and an additional fine of not more than one hundred dollars (\$100.00), the court shall inform the offender that, in lieu of payment of the additional fine of not more than one hundred dollars (\$100.00), the offender instead may elect to attend the distracted driving safety course described in subsection (b)(1) of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than one hundred dollars (\$100.00), so long as the offender submits to the court the offender's payment and such written evidence. (ORC 4511.991)

CHAPTER 305 Traffic Control

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

CROSS REFERENCES

Power to designate highway as included in a freeway, expressway or thruway - see Ohio R.C. 4511.011

Power to enact local traffic regulations - see Ohio R.C. 4511.07, 4511.61

Local traffic control devices - see Ohio R.C. 4511.11

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

Designation of through streets and erection of stop or yield signs - see Ohio R.C. 4511.65; TRAF. 313.02

305.01 DIVISION OF TRAFFIC ENGINEERING AND SAFETY CREATED.

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

305.02 AUTHORITY AND CONSIDERATIONS FOR PLACEMENT OF DEVICES.

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

- (a) The maximum safety and protection of vehicular and pedestrian traffic from physical injury or property damage.
- (b) The existing and potential traffic movement, volume and conditions.

- (c) The location and frequency of accidents, including studies of remedial measures.
- (d) The recommendations of the Police and Fire Chiefs.

(e) The acceleration of transportation of persons and property by vehicles so as to expedite travel and promote public safety.

- (f) The convenience and welfare of the general public in parking, standing, loading and unloading, and the use of the streets as affecting business concerns and places of assembly.
- (g) Economy in the expenditure of money.

305.03 CONFORMITY WITH STATE MANUAL.

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

305.04 POWERS OF PUBLIC SERVICES DIRECTOR.

The Director of Public Services is hereby empowered to:

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

- (l) Determine the location of any necessary bus stops and taxicab stands.
- (m) Determine the location and limiting hours of truck loading zones.

(n) Designate dangerous railroad crossings and erect stop signs thereat.

(o) Erect "No U Turn" signs at any location to prohibit a vehicle from being turned so as to proceed in the opposite direction.

(p) Regulate or prohibit the stopping, standing and parking of vehicles on streets, alleys or public property by erecting signs plainly indicating the prohibitions, restrictions or limitations.

(q) Designate individual parking spaces by markings, which may either be parallel or

at a prescribed angle to the curb or edge of the roadway.

(r) Designate truck routes and streets or parts thereof where either a weight limit restriction or truck exclusion has been imposed by rule or regulation provided such is not in conflict with any legislation.

(s) Erect signs to prohibit a right or left turn against a steady red signal at any

intersection.

305.05 POSTING OF SIGNS AND SIGNALS REQUIRED.

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

305.06 DIRECTOR'S POWERS NOT LIMITED.

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

305.07 RECORDS OF DIRECTOR.

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

305.08 RESERVATION OF POWER TO COUNCIL.

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

305.09 VIOLATIONS SUBJECT TO MISDEMEANOR CLASSIFICATION.

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

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TITLE THREE - Streets and Traffic Control Devices

Chap. 311. Street Obstructions and Special Uses.

Chap. 313. Traffic Control Devices.

CHAPTER 311 Street Obstructions and Special Uses

311.01 Placing injurious material or obstruction in street.

311.03 Toy vehicles on streets.

311.02 Parades and assemblages.

CROSS REFERENCES

See sectional history for similar State law Power to regulate processions or assemblages - see Ohio R.C. 4511.07(C) Dropping, sifting and leaking loads - see TRAF. 339.08

311.01 PLACING INJURIOUS MATERIAL OR OBSTRUCTION IN STREET.

- (a) No person shall place or knowingly drop upon any part of a street, highway or alley any tacks, bottles, wire, glass, nails or other articles which may damage or injure any person, vehicle or animal traveling along or upon such street, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.
- (b) Any person who drops or permits to be dropped or thrown upon any street any noxious, destructive or injurious material shall immediately remove the same.
- (c) Any person authorized to remove a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle.
 - (d) No person shall place any obstruction in or upon a street without proper authority.
- (e) No person, with intent to cause physical harm to a person or vehicle, shall place or knowingly drop upon any part of a highway, lane, road, street or alley any tacks, bottles, wire, glass, nails or other articles which may damage or injure any person, vehicle or animal traveling along or upon such highway, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.

- (f) Except as otherwise provided in this subsection, whoever violates any provision of subsections (a) to (d) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the third degree.
 - (2) Whoever violates subsection (e) of this section is guilty of a misdemeanor of the first degree. (ORC 4511.74)

311.02 PARADES AND ASSEMBLAGES.

(a) No person, group of persons or organization shall conduct or participate in any parade, assemblage or procession other than a funeral procession upon any street or highway, or block off any street or highway area, without first obtaining a permit from the Police Chief.

Applications for such permits shall be made on such forms as may be prescribed and shall contain such information as is reasonably necessary to a fair determination of whether a permit should be issued. Applications shall be filed not less than five days before the time intended for such parade, procession or assemblage.

The permit may be refused or cancelled if:

- (1) The time, place, size or conduct of the parade including the assembly areas and route of march would unreasonably interfere with the public convenience and safe use of the streets and highways.
- (2) The parade would require the diversion of so great a number of police officers to properly police the line of movement, assembly area and areas contiguous thereto so as to deny normal police protection to the Municipality.
- (3) The parade route of march or assembly areas would unreasonably interfere with the movement of police vehicles, fire-fighting equipment or ambulance service to other areas of the Municipality.
- (4) The parade would unreasonably interfere with another parade for which a permit has been issued.
- (5) The information contained in the application is found to be false, misleading or incomplete in any material detail.
- (6) An emergency such as a fire or storm would prevent the proper conduct of the parade.

The permit or any order accompanying it may limit or prescribe reasonable conditions, including the hours, the place of assembly and of dispersal, the route of march or travel and the streets, highways or portions thereof which may be used or occupied.

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

311.03 TOY VEHICLES ON STREETS.

- (a) No person on roller skates or riding in or by means of any sled, toy vehicle, skateboard or similar device shall go upon any roadway except while crossing a street on a crosswalk and except on streets set aside as play streets.
- (b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

CHAPTER 313 Traffic Control Devices

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

CROSS REFERENCES

See sectional histories for similar State law
Designation of through streets or stop intersections - see
Ohio R.C. 4511.07(F), 4511.65
Uniform system of traffic control devices - see Ohio R.C. 4511.09,
4511.11(D)
Placing and maintaining local traffic control devices - see Ohio
R.C. 4511.10, 4511.11
Traffic control devices defined - TRAF. 301.46

313.01 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

(a) No pedestrian or driver of a vehicle shall disobey the instructions of any traffic control device placed in accordance with the provisions of this Traffic Code, unless at the time otherwise directed by a police officer.

No provisions of this Traffic Code for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section of this Traffic Code does not state that signs are required, that section shall be effective even though no signs are erected or in place.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.12)

313.02 THROUGH STREETS; STOP AND YIELD RIGHT-OF-WAY SIGNS.

(a) All State routes are hereby designated as through streets or highways, provided that stop signs, yield signs or traffic control signals shall be erected at all intersections with such through streets or highways, except as otherwise provided in this section. Where two or more State routes that are through streets or highways intersect and no traffic control signal is in operation, stop signs or yield signs shall be erected at one or more entrances thereto by the Ohio Department of Transportation, except as otherwise provided in this section.

Whenever the Ohio Director of Transportation determines on the basis of an engineering and traffic investigation that stop signs are necessary to stop traffic on a through highway for safe and efficient operation, nothing in this section shall be construed to prevent such installations. When circumstances warrant, the Director also may omit stop signs on roadways intersecting through highways under his jurisdiction. Before the Director either installs or removes a stop sign under this paragraph, he shall give notice, in writing, of that proposed action to the Municipality at least thirty days before installing or removing the stop sign.

- or highways, if they are within the Municipality, if they have a continuous length of more than one mile between the limits of such street or highway or portion thereof, and if they have "stop" or "yield" signs or traffic control signals at the entrances of the majority of intersecting streets or highways. For purposes of this section, the limits of such street or highway or portion thereof, shall be a municipal corporation line, the physical terminus of the street or highway or any point on such street or highway at which vehicular traffic thereon is required by regulatory signs to stop or yield to traffic on the intersecting street, provided that in residence districts the Municipality may by ordinance designate such street or highway, or portion thereof, not to be a through highway and thereafter the affected residence district shall be indicated by official traffic control devices. Where two or more streets or highways designated under this subsection (b) intersect and no traffic control signal is in operation, stop signs or yield signs shall be erected at one or more entrances thereto by the Ohio Department of Transportation or by Council or the authorized local authority, except as otherwise provided in this section.
- (c) Stop signs need not be erected at intersections so constructed as to permit traffic to safely enter a through street or highway without coming to a stop. Signs shall be erected at such intersections indicating that the operator of a vehicle shall yield the right of way to or merge with all traffic proceeding on the through street or highway.
- (d) Council or the authorized local authority may designate additional through streets or highways and shall erect stop signs, yield signs or traffic control signals at all streets and highways intersecting such through streets or highways, or may designate any intersection as a stop or yield intersection and shall erect like signs at one or more entrances to such intersection. (ORC 4511.65)

313.03 TRAFFIC SIGNAL INDICATIONS.

Highway traffic signal indications for vehicles, and pedestrians shall have the following meanings:

(a) Steady Green Signal Indication:

(1) A. Vehicular traffic facing a circular green signal indication is permitted to proceed straight through or turn right or left, or make a u-turn movement except as such movement is modified by a laneuse sign, turn prohibition sign, lane marking, roadway design, separate turn signal indication, or other traffic control device. Such vehicular traffic, including vehicles turning right or left or making a u-turn movement, shall yield the right-of-way to both of the following:

- 1. Pedestrians lawfully within an associated crosswalk;
- 2. Other vehicles lawfully within the intersection.
- B. In addition, vehicular traffic turning left or making a u-turn movement to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.
- (2) Vehicular traffic facing a green arrow signal indication, displayed alone or in combination with another signal indication, is permitted to cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications displayed at the same time. Such vehicular traffic, including vehicles turning right or left or making a u-turn movement, shall yield the right-of-way to both of the following:
 - A. Pedestrians lawfully within an associated crosswalk.
 - B. Other traffic lawfully using the intersection.
- (3) A. Unless otherwise directed by a pedestrian signal indication, as provided in Section 313.05, pedestrians facing a circular green signal indication are permitted to proceed across the roadway within any marked or unmarked associated crosswalk. The pedestrian shall yield the right-of-way to vehicles lawfully within the intersection or so close as to create an immediate hazard at the time that the green signal indication is first displayed.
 - B. Pedestrians facing a green arrow signal indication, unless otherwise directed by a pedestrian signal indication or other traffic control device, shall not cross the roadway.
- (b) Steady Yellow Signal Indication:
 - (1) Vehicular traffic facing a steady circular yellow signal indication is thereby warned that the related green movement or the related flashing arrow movement is being terminated or that a steady red signal indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection. The provisions governing vehicular operation under the movement being terminated shall continue to apply while the steady circular yellow signal indication is displayed.
 - (2) Vehicular traffic facing a steady yellow arrow signal indication is thereby warned that the related green arrow movement or the related flashing arrow movement is being terminated. The provisions governing vehicular operation under the movement being terminated shall continue to apply while the steady yellow arrow signal indication is displayed.
 - (3) Pedestrians facing a steady circular yellow or yellow arrow signal indication, unless otherwise directed by a pedestrian signal indication as provided in Section 313.05 or other traffic control device, shall not start to cross the roadway.
- (c) Steady Red Signal Indication:
 - (1) A. Vehicular traffic facing a steady circular red signal indication, unless entering the intersection to make another movement permitted by another signal indication, shall stop at a clearly marked stop line; but if there is no stop line, traffic shall stop before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, before then before entering the intersection; and shall remain stopped until a signal indication to proceed is displayed except as provided in subsections (c)(1), (2) and (3) of this section.

- B. Except when a traffic control device is in place prohibiting a turn on red or a steady red arrow signal indication is displayed, vehicular traffic facing a steady circular red signal indication is permitted, after stopping, to enter the intersection to turn right, or to turn left from a one-way street into a one-way street. The right to proceed with the turn shall be subject to the provisions that are applicable after making a stop at a stop sign.
- Vehicular traffic facing a steady red arrow signal indication shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make another movement permitted by another signal indication, shall stop at a clearly marked stop line; but if there is no stop line, before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, then before entering the intersection; and shall remain stopped until a signal indication or other traffic control device permitting the movement indicated by such red arrow is displayed.
 - B. When a traffic control device is in place permitting a turn on a steady red arrow signal indication, vehicular traffic facing a steady red arrow indication is permitted, after stopping, to enter the intersection to turn right or to turn left from a one-way street into a one-way street. The right to proceed with the turn shall be limited to the direction indicated by the arrow, and shall be subject to the provisions that are applicable after making a stop at a stop sign.
- Unless otherwise directed by a pedestrian signal indication as provided in Section 313.05 or other traffic control device, pedestrians facing a steady circular red or steady red arrow signal indication shall not enter the roadway.
- (4) Local authorities by ordinance, or the Director of Transportation on State highways, may prohibit a right or a left turn against a steady red signal at any intersection, which shall be effective when signs giving notice thereof are posted at the intersection.
- (d) <u>Flashing Green Signal Indication.</u> A flashing green signal indication has no meaning and shall not be used.
- (e) Flashing Yellow Signal Indication:
 - (1) A. Vehicular traffic, on an approach to an intersection, facing a flashing circular yellow signal indication, is permitted to cautiously enter the intersection to proceed straight through or turn right or left or make a u-turn movement except as such movement is modified by lane-use signs, turn prohibition signs, lane markings, roadway design, separate turn signal indications, or other traffic control devices. Such vehicular traffic, including vehicles turning right or left or making a u-turn movement, shall yield the right-of-way to both of the following:
 - 1. Pedestrians lawfully within an associated crosswalk;
 - 2. Other vehicles lawfully within the intersection.
 - B. In addition, vehicular traffic turning left or making a u-turn to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.

(2) A. Vehicular traffic, on an approach to an intersection, facing a flashing yellow arrow signal indication, displayed alone or in combination with another signal indication, is permitted to cautiously enter the intersection only to make the movement indicated by such arrow, or other such movement as is permitted by other signal indications displayed at the same time. Such vehicular traffic, including vehicles turning right or left or making a u-turn, shall yield the right-of-way to both of the following:

1. Pedestrians lawfully within an associated crosswalk:

2. Other vehicles lawfully within the intersection.

- B. In addition, vehicular traffic turning left or making a u-turn to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.
- (3) Pedestrians facing any flashing yellow signal indication at an intersection, unless otherwise directed by a pedestrian signal indication or other traffic control device, are permitted to proceed across the roadway within any marked or unmarked associated crosswalk. Pedestrians shall yield the right-of-way to vehicles lawfully within the intersection at the time that the flashing yellow signal indication is first displayed.

(4) When a flashing circular yellow signal indication is displayed as a beacon to supplement another traffic control device, road users are notified that there is a need to pay additional attention to the message contained thereon or that the regulatory or warning requirements of the other traffic control device, which might not be applicable at all times, are currently applicable.

(f) Flashing Red Signal Indication:

(1) Vehicular traffic, on an approach to an intersection, facing a flashing circular red signal indication, shall stop at a clearly marked stop line; but if there is no stop line, before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. The right to proceed shall be subject to the provisions that are applicable after making a stop at a stop sign.

(2) Pedestrians facing any flashing red signal indication at an intersection, unless otherwise directed by a pedestrian signal indication or other traffic control device, are permitted to proceed across the roadway within any marked or unmarked associated crosswalk. Pedestrians shall yield the right-of-way to vehicles lawfully within the intersection at the time that the

flashing red signal indication is first displayed.

(3) When a flashing circular red signal indication is displayed as a beacon to supplement another traffic control device, road users are notified that there is a need to pay additional attention to the message contained thereon or that the regulatory requirements of the other traffic control device, which might not be applicable at all times, are currently applicable. Use of this signal indication shall be limited to supplementing stop, do not enter, or wrong way signs, and to applications where compliance with the supplemented traffic control device requires a stop at a designated point.

- (g) <u>General Application</u>: In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.
- (h) Exception. This section does not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by Ohio R.C. 4511.61 and 4511.62. (ORC 4511.13)

313.04 LANE-USE CONTROL SIGNAL INDICATIONS.

- (a) The meanings of lane-use control signal indications are as follows:
 - (1) A steady downward green arrow: A road user is permitted to drive in the lane over which the arrow signal indication is located.
 - (2) A steady yellow "X": A road user is to prepare to vacate the lane over which the signal indication is located because a lane control change is being made to a steady red "X" signal indication.
 - (3) A steady white two-way left-turn arrow: A road user is permitted to use a lane over which the signal indication is located for a left turn, but not for through travel, with the understanding that common use of the lane by oncoming road users for left turns also is permitted.
 - (4) A steady white one-way left-turn arrow: A road user is permitted to use a lane over which the signal indication is located for a left turn, without opposing turns in the same lane, but not for through travel.
 - (5) A steady red "X": A road user is not permitted to use the lane over which the signal indication is located and that this signal indication shall modify accordingly the meaning of other traffic controls present.

 (ORC 4511.131)
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.99)

313.05 SPECIAL PEDESTRIAN CONTROL SIGNALS.

- (a) Whenever special pedestrian control signals exhibiting the words "walk" or "don't walk", or the symbol of a walking person or an upraised palm are in place, such signals shall indicate the following instructions:
 - A steady walking person signal indication, which symbolizes "walk", means that a pedestrian facing the signal indication is permitted to start to cross the roadway in the direction of the signal indication, possibly in conflict with turning vehicles. The pedestrian shall yield the right-of-way to vehicles lawfully within the intersection at the time that the walking person signal indication is first shown.

- (2) A flashing upraised hand signal indication, which symbolizes "don't walk", means that a pedestrian shall not start to cross the roadway in the direction of the signal indication, but that any pedestrian who has already started to cross on a steady walking person signal indication shall proceed to the far side of the traveled way of the street or highway, unless otherwise directed by a traffic control device to proceed only to the median of a divided highway or only to some other island or pedestrian refuge area.
- (3) A steady upraised hand signal indication means that a pedestrian shall not enter the roadway in the direction of the signal indication.
- (4) Nothing int his section shall be construed to invalidate the continued use of pedestrian control signals utilizing the word "wait" if those signals were installed prior to March 28, 1985.
- (5) A flashing walking person signal indication has no meaning and shall not be used. (ORC 4511.14)
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.99)

313.06 FLASHING TRAFFIC SIGNALS.

(Former Ohio R.C. 4511.15 from which Section 313.06 was derived was repealed by House Bill 349, effective April 20, 2012.)

313.07 UNAUTHORIZED SIGNS AND SIGNALS, HIDING FROM VIEW, ADVERTISING.

(a) No person shall place, maintain or display upon or in view of any street any unauthorized sign, signal, marking or device which purports to be, is an imitation of or resembles a traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or hides from view or interferes with the effectiveness of any traffic control device or any railroad sign or signal, and no person shall place or maintain, nor shall any public authority permit upon any street any traffic sign or signal bearing thereon any commercial advertising. This section does not prohibit either the erection upon private property adjacent to streets of signs giving useful directional information and of a type that cannot be mistaken for traffic control devices, or the erection upon private property of traffic control devices by the owner of real property in accordance with Ohio R.C. 4511.211 and 4511.432.

Every such prohibited sign, signal, marking or device is a public nuisance, and the Police Chief is authorized to remove it or cause it to be removed.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.16)

313.08 ALTERATION, INJURY, REMOVAL OF TRAFFIC CONTROL DEVICES.

(a) No person without lawful authority, shall do any of the following:

(1) Knowingly move, deface, damage, destroy or otherwise improperly tamper with any traffic control device, any railroad sign or signal, or any inscription, shield or insignia on the device, sign or signal, or any part of the device, sign or signal;

(2) Knowingly drive upon or over any freshly applied pavement marking material on the surface of a roadway while the marking material is in an undried condition and is marked by flags, markers, signs or other devices intended to protect it:

(3) Knowingly move, damage, destroy or otherwise improperly tamper with a manhole cover.

(b) (1) Except as otherwise provided in this subsection, whoever violates subsection (a)(1) or (3) of this section is guilty of a misdemeanor of the third degree. If a violation of subsection (a)(1) or (3) of this section creates a risk of physical harm to any person, the offender is guilty of a misdemeanor of the first degree. If a violation of subsection (a)(1) or (3) of this section causes serious physical harm to property that is owned, leased, or controlled by a state or local authority, the offender is guilty of a felony and shall be prosecuted under appropriate state law.

(2) Except as otherwise provided in this subsection, whoever violates subsection (a)(2) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the third degree. (ORC 4511.17)

313.09 DRIVER'S DUTIES UPON APPROACHING AMBIGUOUS OR NON-WORKING TRAFFIC SIGNAL.

(a) The driver of a vehicle who approaches an intersection where traffic is controlled by traffic control signals shall do all of the following if the signal facing the driver exhibits no colored lights or colored lighted arrows, exhibits a combination of such lights or arrows that fails to clearly indicate the assignment of right of way, or, if the vehicle is a bicycle or an electric bicycle, the signals are otherwise malfunctioning due to the failure of a vehicle detector to detect the presence of the bicycle or electric bicycle.

(1) Stop at a clearly marked stop line, but if none, stop before entering the crosswalk on the near side of the intersection, or, if none, stop before

entering the intersection;

Yield the right of way to all vehicles in the intersection or approaching on an intersecting road, if the vehicles will constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.

(3) Exercise ordinary care while proceeding through the intersection.

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

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

(ORC 4511.132)

313.10 UNLAWFUL PURCHASE, POSSESSION OR SALE.

- (a) As used in this section, "traffic control device" means any sign, traffic control signal or other device conforming to and placed or erected in accordance with the manual adopted under Ohio R.C. 4511.09 by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic, including signs denoting the names of streets and highways, but does not mean any pavement marking.
- (b) No individual shall buy or otherwise possess or sell, a traffic control device, except when one of the following applies:
 - (1) In the course of the individual's employment by the State or a local authority for the express or implied purpose of manufacturing, providing, erecting, moving or removing such a traffic control device;
 - (2) In the course of the individual's employment by any manufacturer of traffic control devices other than a State or local authority;

- (3) For the purpose of demonstrating the design and function of a traffic control device to State or local officials;
- When the traffic control device has been purchased from the State or a local authority at a sale of property that is no longer needed or is unfit for use:
- (5) The traffic control device has been properly purchased from a manufacturer for use on private property and the person possessing the device has a sales receipt for the device or other acknowledgment of sale issued by the manufacturer.
- (c) This section does not preclude, and shall not be construed as precluding, prosecution for theft in violation of Ohio R.C. 2913.02 or a municipal ordinance relating to theft, or for receiving stolen property in violation of Ohio R.C. 2913.51 or a municipal ordinance relating to receiving stolen property.
- (d) Whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.18)

313.11 PORTABLE SIGNAL PREEMPTION DEVICES PROHIBITED.

- (a) (1) No person shall possess a portable signal preemption device.
 - No person shall use a portable signal preemption device to affect the operation of a traffic control signal.
- (b) Subsection (a)(1) of this section does not apply to any of the following persons and subsection (a)(2) of this section does not apply to any of the following persons when responding to an emergency call:
 - (1) A peace officer, as defined in Ohio R.C. 109.71(A)(11), (12), (14) or (19);
 - (2) A State highway patrol trooper;
 - (3) A person while occupying a public safety vehicle as defined in Ohio R.C. 4511.01(E)(1), (3) or (4).
- (c) Whoever violates subsection (a)(1) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the first degree.
- (d) As used in this section, "portable signal preemption device" means a device that, if activated by a person, is capable of changing a traffic control signal to green out of sequence. (ORC 4511.031)

TITLE FIVE - Vehicles

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Chap. 335. Licensing; Accidents.
Chap. 337. Safety and Equipment.
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331.211 Report of vehicle failing to yield right of way to public safety vehicle.

CHAPTER 331 Operation Generally

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CROSS REFERENCES

See sectional histories for similar State law Obedience to traffic control devices - see TRAF. 313.01 Operation of bicycles and motorcycles - see TRAF. 373.01 et seq.

School bus operation - see OAC Ch. 4501-3

331.01 DRIVING UPON RIGHT SIDE OF ROADWAY: EXCEPTIONS.

- (a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:
 - When overtaking and passing another vehicle proceeding in the same direction, or when making a left turn under the rules governing such movements:
 - (2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard:
 - (3) When driving upon a roadway divided into three or more marked lanes for traffic under the rules applicable thereon;
 - (4) When driving upon a roadway designated and posted with signs for one-way traffic;
 - (5) When otherwise directed by a police officer or traffic control device.
 - (b) (1) Upon all roadways any vehicle proceeding at less than the prevailing and lawful speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, and far enough to the right to allow passing by faster vehicles if such passing is safe and reasonable, except under any of the following circumstances:
 - A. When overtaking and passing another vehicle proceeding in the same direction;
 - B. When preparing for a left turn;
 - C. When the driver must necessarily drive in a lane other than the right-hand lane to continue on the driver's intended route.
 - (2) Nothing in subsection (b)(1) of this section requires a driver of a slower vehicle to compromise the driver's safety to allow overtaking by a faster vehicle.

(c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic control devices designating certain lanes to the left of the center of the roadway for use by traffic not otherwise permitted to use the lanes, or except as permitted under subsection (a) (2) hereof.

This subsection shall not be construed as prohibiting the crossing of the center line in

making a left turn into or from an alley, private road or driveway.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine

established under Section 303.991 of the Traffic Code. (ORC 4511.25)

331.02 PASSING TO RIGHT WHEN PROCEEDING IN OPPOSITE DIRECTIONS.

- (a) Operators of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction, each operator shall give to the other one-half of the main traveled portion of the roadway or as nearly one-half as is reasonably possible.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.26)

331.03 OVERTAKING, PASSING TO LEFT; DRIVER'S DUTIES.

- (a) The following rules govern the overtaking and passing of vehicles proceeding in the same direction:
 - (1) The operator of a vehicle overtaking another vehicle proceeding in the same direction shall, except as provided in subsection (a)(3) hereof, signal to the vehicle to be overtaken, shall pass to the left thereof at a safe distance, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle. When a motor vehicle overtakes and passes a bicycle or electric bicycle, three feet or greater is considered a safe passing distance.
 - (2) Except when overtaking and passing on the right is permitted, the operator of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle at the latter's audible signal, and the operator shall not increase the speed of the operator's vehicle until completely passed by the overtaking vehicle.

- (3) The operator of a vehicle overtaking and passing another vehicle proceeding in the same direction on a divided street or highway as defined in Section 331.31, a limited access highway as defined in Ohio R.C. 5511.02 or a highway with four or more traffic lanes, is not required to signal audibly to the vehicle being overtaken and passed.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.27)

331.04 OVERTAKING AND PASSING UPON RIGHT.

- (a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
 - (1) When the vehicle overtaken is making or about to make a left turn;
 - Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.
- (b) The driver of a vehicle may overtake and pass another vehicle only under conditions permitting such movement in safety. The movement shall not be made by driving off the roadway.
- (c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.28)

331.05 OVERTAKING, PASSING TO LEFT OF CENTER.

(a) No vehicle shall be driven to the left of the center of the roadway in overtaking and passing traffic proceeding in the same direction, unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made, without interfering with the safe operation of any traffic approaching from the opposite direction or any traffic overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for traffic approaching from the opposite direction before coming within 200 feet of any approaching vehicle.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.29)

331.06 ADDITIONAL RESTRICTIONS ON DRIVING UPON LEFT SIDE OF ROADWAY.

- (a) No vehicle shall be driven upon the left side of the roadway under the following conditions:
 - When approaching the crest of a grade or upon a curve in the highway, where the operator's view is obstructed within such a distance as to create a hazard in the event traffic might approach from the opposite direction;
 - When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel;
 - When approaching within 100 feet of or traversing any intersection or railroad grade crossing.
- (b) This section does not apply to vehicles upon a one-way roadway, upon a roadway where traffic is lawfully directed to be driven to the left side or under the conditions described in Section 331.01(a)(2).
- (c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.30)

331.07 HAZARDOUS OR NO PASSING ZONES.

(a) Hazardous zones, commonly called "no passing zones," shall consist of an auxiliary yellow line marked on the roadway pavement and placed parallel to the normal center line or marked lane line. When the auxiliary yellow line appears on the left side in the driver's lane of travel and to the right of the normal center line or marked lane line, no driver shall drive across the auxiliary yellow line to overtake and pass another vehicle proceeding in the same direction. When auxiliary yellow lines appear on both sides of the normal center line or marked lane line, drivers proceeding in either direction shall not drive across such auxiliary yellow lines to overtake

and pass another vehicle proceeding in the same direction. No driver shall, at any other time, drive across the yellow auxiliary line when it appears in the driver's lane of travel, except to make a lawfully permitted left-hand turn under the rules governing such movement. No passing signs may also be erected facing traffic to indicate the beginning and end of each no passing zone.

When appropriate signs or markings indicating hazardous or no passing zones are in place and clearly visible, every operator of a vehicle shall obey the directions of the signs or markings, notwithstanding the distance set out in Section 331.06.

- (b) Subsection (a) of this section does not apply when all of the following apply:
 - (1) The slower vehicle is proceeding at less than half the speed of the speed limit applicable to that location.
 - (2) The faster vehicle is capable of overtaking and passing the slower vehicle without exceeding the speed limit.
 - (3) There is sufficient clear sight distance to the left of the center or center line of the roadway to meet the overtaking and passing provisions of Section 331.05, considering the speed of the slower vehicle.
- (c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.31)

331.08 DRIVING IN MARKED LANES OR CONTINUOUS LINES OF TRAFFIC.

- (a) Whenever any roadway has been divided into two or more clearly marked lanes for traffic or wherever traffic is lawfully moving in two or more substantially continuous lines in the same direction, the following rules apply:
 - (1) A vehicle shall be driven, as nearly as is practicable, entirely within a single lane or line of traffic and shall not be moved from such lane or line until the driver has first ascertained that such movement can be made with safety.
 - (2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or when preparing for a left turn, or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is posted with signs to give notice of such allocation.
 - (3) Official signs may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, or restricting the use of a particular lane to only buses during certain hours or during all hours, and drivers of vehicles shall obey the directions of such signs.
 - (4) Official traffic control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.33)

331.09 FOLLOWING TOO CLOSELY.

(a) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the highway.

The driver of any truck, or motor vehicle drawing another vehicle, when traveling upon a roadway outside a business or residence district shall maintain a sufficient space, whenever conditions permit, between such vehicle and another vehicle ahead so an overtaking motor vehicle may enter and occupy such space without danger. This paragraph does not prevent overtaking and passing nor does it apply to any lane specially designated for use by trucks.

Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, shall maintain a sufficient space between such vehicles so an overtaking vehicle may enter and occupy such space without danger. This paragraph shall not apply to funeral processions.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.34)

331.10 TURNING AT INTERSECTIONS.

- (a) The driver of a vehicle intending to turn at an intersection shall be governed by the following rules:
 - (1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
 - At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

- (3) At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane of the roadway being entered lawfully available to the traffic moving in that lane.
- (4) Markers, buttons or signs may be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such markers, buttons or signs are so placed, no operator of a vehicle shall turn such vehicle at an intersection other than as directed and required by such markers, buttons or signs.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.36)

331.11 TURNING INTO PRIVATE DRIVEWAY, ALLEY OR BUILDING.

- (a) The driver of a vehicle intending to turn into a private road or driveway, alley or building from a public street or highway shall be governed by the following rules:
 - (1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
 - Upon a roadway where traffic is proceeding in opposite directions, approach for a left turn and a left turn shall be made from that portion of the right half of the roadway nearest the center line thereof.
 - Upon a roadway where traffic is restricted to one direction, approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway.

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

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

331.12 "U" TURNS RESTRICTED.

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

- (b) The driver of an emergency vehicle or public safety vehicle, when responding to an emergency call, may turn the vehicle so as to proceed in the opposite direction. This subsection applies only when the emergency vehicle or public safety vehicle is responding to an emergency call, is equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle, and when the driver of the vehicle is giving an audible signal by siren, exhaust whistle or bell. This subsection does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway. (ORC 4511.37)
- (c) Except as provided in subsection (b) hereof, no vehicle shall be turned so as to proceed in the opposite direction within an intersection, or upon any street in a business district, or upon a freeway, expressway or controlled-access highway, or where authorized signs are erected to prohibit such movement, or at any other location unless such movement can be made with reasonable safety to other users of the street and without interfering with the safe operation of any traffic that may be affected by such movement.
- (d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.37)

331.13 STARTING AND BACKING VEHICLES.

(a) No person shall start a vehicle which is stopped, standing or parked until such movement can be made with reasonable safety.

Before backing, operators of vehicles shall give ample warning, and while backing they shall exercise vigilance not to injure person or property on the street or highway.

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No person shall back a motor vehicle on a freeway, except: in a rest area; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.38)

331.14 SIGNALS BEFORE CHANGING COURSE, TURNING OR STOPPING.

(a) No person shall turn a vehicle or move right or left upon a highway unless and until such person has exercised due care to ascertain that the movement can be made with reasonable safety nor without giving an appropriate signal in the manner hereinafter provided.

When required, a signal of intention to turn or move right or left shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning, except that in the case of a person operating a bicycle or electric bicycle, the signal shall be made not less than one time but is not required to be continuous. A bicycle or electric bicycle operator is not required to make a signal if the bicycle or electric bicycle is in a designated turn lane, and a signal shall not be given when the operator's hands are needed for the safe operation of the bicycle or electric bicycle.

No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give a signal.

Any stop or turn signal required by this section shall be given either by means of the hand and arm, or by signal lights that clearly indicate to both approaching and following traffic intention to turn or move right or left, except that any motor vehicle in use on a highway shall be equipped with, and the required signal shall be given by, signal lights when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds twenty-four inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen feet, whether a single vehicle or a combination of vehicles.

The signal lights required by this section shall not be flashed on one side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.39)

331.15 HAND AND ARM SIGNALS.

- (a) Except as provided in subsection (b) hereof, all signals required by this Traffic Code, when given by hand and arm shall be given from the left side of the vehicle in the following manner, and such signals shall indicate as follows:
 - (1) <u>Left turn:</u> Hand and arm extended horizontally;
 - (2) Right turn: Hand and arm extended upward;
 - (3) Stop or decrease speed: Hand and arm extended downward.
- (b) As an alternative to subsection (a)(2) hereof, a person operating a bicycle or electric bicycle may give a right turn signal by extending the right hand and arm horizontally and to the right side of the bicycle or electric bicycle.
- (c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.40)

331.16 RIGHT OF WAY AT INTERSECTIONS.

- (a) When two vehicles approach or enter an intersection from different streets or highways at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.
- (b) The right of way rule declared in subsection (a) hereof, is modified at through highways and otherwise as stated in this Traffic Code and Ohio R.C. Chapter 4511. (ORC 4511.41)
- (c) Subject to compliance with any traffic control device, when two vehicles approach or enter a junction of two or more alleys from different directions at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.
- (d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.41)

331.17 RIGHT OF WAY WHEN TURNING LEFT.

- (a) The operator of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right of way to any vehicle approaching from the opposite direction, whenever the approaching vehicle is within the intersection or so close to the intersection, alley, private road or driveway as to constitute an immediate hazard.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.42)

331.18 OPERATION OF VEHICLE AT YIELD SIGNS.

- (a) The driver of a vehicle approaching a yield sign shall slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways. Whenever a driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, the collision shall be prima-facie evidence of the driver's failure to yield the right of way.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.43(B))

331.19 OPERATION OF VEHICLE AT STOP SIGNS.

- (a) Except when directed to proceed by a law enforcement officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.43(A))

331,20 EMERGENCY OR PUBLIC SAFETY VEHICLES AT STOP SIGNALS OR SIGNS.

(a) The driver of any emergency vehicle or public safety vehicle, when responding to an emergency call, upon approaching a red or stop signal or any stop sign shall slow down as necessary for safety to traffic, but may proceed cautiously past such red or stop sign or signal with due regard for the safety of all persons using the street or highway.

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

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

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

- (a) Upon the approach of a public safety vehicle or coroner's vehicle, equipped with at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and the driver is giving an audible signal by siren, exhaust whistle or bell, no driver of any other vehicle shall fail to yield the right-of-way, immediately drive if practical to a position parallel to and as close as possible to, the right edge or curb of the street clear of any intersection, and stop and remain in that position until the public safety vehicle or coroner's vehicle has passed, except when otherwise directed by a police officer.
- (b) This section does not relieve the driver of a public safety vehicle or coroner's vehicle from the duty to drive with due regard for the safety of all persons and property upon the street.
- (c) This section applies to a coroner's vehicle only when the vehicle is operated in accordance with Ohio R.C. 4513.171. As used in this section, "coroner's vehicle" means a vehicle used by a coroner, deputy coroner or coroner's investigator that is equipped with a flashing, oscillating or rotating red or blue light and a siren, exhaust whistle, or bell capable of giving an audible signal.
- (d) Except as otherwise provided in this subsection or Section 331.211, whoever violates subsection (a) of this section is guilty of a misdemeanor of the fourth degree on a first offense. On a second offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree, and, on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the second degree. (ORC 4511.45)

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

- (a) When the failure of a motor vehicle operator to yield the right-of-way to a public safety vehicle as required by Section 331.21(a) impedes the ability of the public safety vehicle to respond to an emergency, any emergency personnel in the public safety vehicle may report the license plate number and a general description of the vehicle and the operator of the vehicle to the law enforcement agency exercising jurisdiction over the area where the alleged violation occurred.
 - (b) (1) Upon receipt of a report under subsection (a) of this section, the law enforcement agency may conduct an investigation to attempt to determine or confirm the identity of the operator of the vehicle at the time of the alleged violation.
 - (2) If the identity of the operator at the time of an alleged violation of Section 331.21(a) is established, the law enforcement agency has probable cause to issue either a written warning or a citation for that violation, and the agency shall issue a written warning or a citation to the operator.

- (3) If the identity of the operator of the vehicle at the time of the alleged violation cannot be established, the law enforcement agency may issue a warning to the person who owned the vehicle at the time of the alleged violation. However, in the case of a leased or rented vehicle, the law enforcement agency shall issue the written warning to the person who leased or rented the vehicle at the time of the alleged violation.
- (c) 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.
 - "Public safety vehicle" does not include an unmarked public safety vehicle or a vehicle used by a public law enforcement officer or other person sworn to enforce the criminal and traffic laws of the State or a vehicle used by the Motor Carrier Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission. (ORC 4511.454)

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

- (a) Subject to compliance with any traffic control device, the operator of a vehicle about to enter or cross a highway from an alley or from any place other than another roadway shall yield the right of way to all traffic approaching on the roadway to be entered or crossed.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

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

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

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.431)

331.24 RIGHT OF WAY OF FUNERAL PROCESSION.

- (a) As used in this section "funeral procession" means two or more vehicles accompanying the cremated remains or the body of a deceased person in the daytime when each of the vehicles has its headlights lighted and is displaying a purple and white or an orange and white pennant attached to each vehicle in such a manner as to be clearly visible to traffic approaching from any direction.
- (b) Excepting public safety vehicles proceeding in accordance with Section 331.21 or when directed otherwise by a police officer, pedestrians and the operators of all vehicles shall yield the right of way to each vehicle that is a part of a funeral procession. Whenever the lead vehicle in a funeral procession lawfully enters an intersection, the remainder of the vehicles in the procession may continue to follow the lead vehicle through the intersection notwithstanding any traffic control devices or right-of-way provisions of this Traffic Code, provided that the operator of each vehicle exercises due care to avoid colliding with any other vehicle or pedestrian.
- (c) No person shall operate any vehicle as a part of a funeral procession without having the headlights of the vehicle lighted and without displaying a purple and white or an orange and white pennant in such a manner as to be clearly visible to traffic approaching from any direction.
- (d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.451)

331.25 DRIVER'S VIEW AND CONTROL TO BE UNOBSTRUCTED BY LOAD OR PERSONS.

- (a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, as to obstruct the view of the driver to the front or sides of the vehicle or to interfere with the driver's control over the driving mechanism of the vehicle.
- (b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.70(A),(B),(D))

331.26 DRIVING UPON STREET POSTED AS CLOSED FOR REPAIR.

- (a) No person shall drive upon, along or across a street or highway, or any part of a street or highway that has been closed in the process of its construction, reconstruction or repair, and posted with appropriate signs by the authority having jurisdiction to close such street or highway.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.71)

331.27 FOLLOWING AND PARKING NEAR EMERGENCY OR SAFETY VEHICLES.

- (a) The driver of any vehicle, other than an emergency vehicle or public safety vehicle on official business, shall not follow any emergency vehicle or public safety vehicle traveling in response to an alarm closer than 500 feet, or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm, unless directed to do so by a police officer or a firefighter.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.72)

331.28 DRIVING OVER FIRE HOSE.

(a) No vehicle shall, without the consent of the Fire Chief or fire official in command, be driven over any unprotected fire hose that is laid down on any street or private driveway to be used at any fire or alarm of fire.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.73)

331.29 DRIVING THROUGH SAFETY ZONE.

- (a) No vehicle shall at any time be driven through or within a safety zone.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.60)

331.30 ONE-WAY STREETS AND ROTARY TRAFFIC ISLANDS.

- (a) Upon a roadway designated and posted with signs for one-way traffic a vehicle shall be driven only in the direction designated. A vehicle passing around a rotary traffic island shall be driven only to the right of the rotary traffic island.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.32)

331.31 DRIVING UPON DIVIDED ROADWAYS.

(a) Whenever any street has been divided into two roadways by an intervening space, or by a physical barrier, or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway, and no vehicle shall be driven over, across or within any such dividing space, barrier or median section, except through an opening, crossover or intersection established by public authority. This section does not prohibit the occupancy of such dividing space, barrier or median section for the purpose of an emergency stop or in compliance with an order of a police officer.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.35)

331.32 ENTERING AND EXITING CONTROLLED-ACCESS HIGHWAY.

- (a) No person shall drive a vehicle onto or from any controlled-access highway except at such entrances and exits as are established by public authority.
- (b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

331.33 OBSTRUCTING INTERSECTION, CROSSWALK OR GRADE CROSSING.

- (a) No driver shall enter an intersection or marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians or railroad trains, notwithstanding any traffic control signal indication to proceed.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.712)

331.34 FAILURE TO CONTROL; WEAVING; FULL TIME AND ATTENTION.

- (a) No person shall operate a vehicle without exercising reasonable and ordinary control over such vehicle.
- (b) No person shall operate a vehicle in a weaving or zigzag course unless such irregular course is necessary for safe operation or in compliance with law.
- (c) No person shall operate a vehicle without giving his full time and attention to the operation of such vehicle.

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

331.35 OCCUPYING A MOVING TRAILER OR MANUFACTURED OR MOBILE HOME.

- (a) No person shall occupy any travel trailer or manufactured or mobile home while it is being used as a conveyance upon a street or highway.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.701)

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

- (a) No person shall unnecessarily race the motor of any vehicle and no person shall operate any motor vehicle, except in an emergency, in such a manner that the vehicle is so rapidly accelerated or started from a stopped position that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation, or whereby the tires of such vehicle squeal or leave tire marks on the roadway, commonly called "peeling".
- (b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

331.37 DRIVING UPON SIDEWALKS, STREET LAWNS OR CURBS.

- (a) (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.

- Except as otherwise provided in this subsection (a)(4), whoever violates subsection (a) hereof is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) hereof or Ohio R.C. 4511.76, 4511.761, 4511.762, 4511.764, 4511.77 or 4511.79, or a municipal ordinance that is substantially similar to any of those sections, whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 4511.63)
- (b) (1) When authorized stop signs are erected at railroad grade crossings, the operator of any vehicle shall stop within fifty but not less than fifteen feet from the nearest rail of the railroad tracks and shall exercise due care before proceeding across such grade crossing.
 - (2) Except as otherwise provided in this subsection, whoever violates this subsection (b)(1) hereof is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

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

331.41 SHORTCUTTING; AVOIDING TRAFFIC CONTROL DEVICES.

- (a) No person shall operate a vehicle across public or private property marked with signs "No Through Traffic" or words of similar import for the purpose of passing from one roadway to another.
- (b) No person shall operate a vehicle across public or private property for the purpose of avoiding compliance with a traffic control device.
- (c) It shall be prima-facie evidence of a violation of this section for the operator of a vehicle to cross public or private property as provided herein without using the service of such property, stopping the engine or both.

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

331.42 LITTERING FROM MOTOR VEHICLE.

- (a) No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard or deposit litter from any motor vehicle in operation upon any street, road or highway, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.
- (b) No operator of a motor vehicle in operation upon any street, road or highway shall allow litter to be thrown, dropped, discarded or deposited from the motor vehicle, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.
- (c) As used in this section, "litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature.
- (d) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4511.82)

331.43 WEARING EARPLUGS OR EARPHONES PROHIBITED.

- (a) As used in this section:
 - (1) "Earphones" means any device that covers all or a portion of both ears and that does either of the following:
 - A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;
 - B. Provides hearing protection.

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

- (2) "Earplugs" means any device that can be inserted into one or both ears and that does either of the following:
 - A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;
 - B. Provides hearing protection.
- (b) No person shall operate a motor vehicle while wearing earphones over, or earplugs in, both ears.
 - (c) This section does not apply to:
 - (1) Any person wearing a hearing aid;
 - (2) Law enforcement personnel while on duty;
 - (3) Fire Department personnel and emergency medical service personnel while on duty:
 - (4) Any person engaged in the operation of equipment for use in the maintenance or repair of any highway;

- (5) Any person engaged in the operation of refuse collection equipment;
- (6) Any person wearing earphones or earplugs for hearing protection while operating a motorcycle.
- (d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.84)

331.44 VEHICULAR OPERATION ON STREET CLOSED DUE TO RISE IN WATER LEVEL.

- (a) No person shall operate a vehicle on or onto a public street or highway that is temporarily covered by a rise in water level, including groundwater or an overflow of water, and that is clearly marked by a sign that specifies that the road is closed due to the rise in water level and that any person who uses the closed portion of the road may be fined up to two thousand dollars (\$2,000).
- (b) A person who is issued a citation for a violation of subsection (a) hereof is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in court, but instead must appear in person in the proper court to answer the charge.
 - (c) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.
 - (2)In addition to the financial sanctions authorized or required under Section 501.99 and to any costs otherwise authorized or required under any provision of law, the court imposing the sentence upon an offender who is convicted of or pleads guilty to a violation of subsection (a) hereof shall order the offender to reimburse one or more rescuers for the cost any such rescurer incurred in rescuing the person, excluding any cost of transporting the rescued person to a hospital or other facility for treatment of injuries, up to a cumulative maximum of two thousand dollars (\$2,000). If more than one rescuer was involved in the emergency response, the court shall allocate the reimbursement proportionately, according to the cost each rescuer incurred. A financial sanction imposed under this section is a judgment in favor of the rescuer and, subject to a determination of indigency under division (B) of Ohio R.C. 2929.28, a rescuer may collect the financial sanction in the same manner as provided in Ohio R.C. 2929.28.
 - (d) As used in this section:
 - "Emergency medical service organization", "firefighting agency" and "private fire company" have the same meanings as in Ohio R.C. 9.60.
 - "Rescuer" means a state agency, political subdivision, firefighting service, private fire company, or emergency medical service organization. (ORC 4511.714.)

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CHAPTER 333 OVI; Willful Misconduct; Speed

333.01	Driving or physical control	333.05	Speed limitations over bridges.
	while under the influence.	333.06	Speed exceptions for
333.02	Operation in willful or		emergency or safety vehicles.
	wanton disregard of	333.07	Street racing prohibited.
	safety.	333.08	Operation without
333.03	Maximum speed limits;		reasonable control.
	assured clear distance	333.09	Reckless operation on
	ahead.		streets, public or
333.031	Approaching a stationary public		private property.
	safety, emergency, or road	333.10	
	service vehicle.		immobilization order.
333.04	Stopping vehicle; slow speed; posted minimum speeds.	333.11	Texting while driving prohibited.

CROSS REFERENCES

See sectional histories for similar State law
Drug of abuse defined - see Ohio R.C. 3719.011(A)
Alcohol defined - see Ohio R.C. 4301.01(B)(1)
Alteration of prima-facie speed limits - see Ohio R.C.
4511.21, 4511.22(B), 4511.23
Failure to control vehicle - see TRAF. 331.34
Walking on highway while under the influence - see TRAF. 371.09

333.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE.

- (a) Operation Generally. No person shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:

 A. The person is under the influence of alcohol, a drug of abuse, or
 - The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 - B. The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.
 - C. The person has a concentration of ninety-six-thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - D. The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
 - E. The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

- F. The person has a concentration of seventeen-hundredths of one per cent or more by weight per unit volume of alcohol in the person's whole blood.
- G. The person has a concentration of two hundred four-thousandths of one per cent or more by weight per unit volume of alcohol in the person's blood serum or plasma.
- H. The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.
- I. The person has a concentration of two hundred thirty-eightthousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.
- J. Except as provided in subsection (m) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:
 - 1. The person has a concentration of amphetamine in the person's urine of at least five hundred nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
 - 2. The person has a concentration of cocaine in the person's urine of at least one hundred fifty nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.
 - 3. The person has a concentration of cocaine metabolite in the person's urine of at least one hundred fifty nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.
 - 4. The person has a concentration of heroin in the person's urine of at least two thousand nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least fifty nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.
 - 5. The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.

- 6. The person has a concentration of L.S.D. in the person's urine of at least twenty-five nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
- 7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.
- 8. Either of the following applies:
 - a. The person is under the influence of alcohol, a drug of abuse or a combination of them, and the person has a concentration of marihuana metabolite in the person's urine of at least fifteen nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
 - b. The person has a concentration of marihuana metabolite in the person's urine of at least thirty-five nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
- 9. The person has a concentration of methamphetamine in the person's urine of at least five hundred nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.
- 10. The person has a concentration of phencyclidine in the person's urine of at least twenty-five nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.
- 11. The State Board of Pharmacy has adopted a rule pursuant to Ohio R.C. 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a

person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is impaired for purposes of operating any vehicle within this Municipality, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.

- (2) No person who, within twenty years of the conduct described in subsection (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) or (B), or any other equivalent offense shall do both of the following:
 - A. Operate any vehicle within this Municipality while under the influence of alcohol, a drug of abuse or a combination of them;
 - B. Subsequent to being arrested for operating the vehicle as described in subsection (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under Ohio R.C. 4511.191, and being advised by the officer in accordance with Ohio R.C. 4511.192 of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.
- (b) <u>Operation After Under-Age Consumption.</u> No person under twenty-one years of age shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:
 - (1) The person has a concentration of at least two-hundredths of one per cent but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.
 - (2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - (3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
 - (4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.
- (c) One Conviction Limitation. In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1)A. or (a)(2) and a violation of subsection (b)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections. (ORC 4511.99)
 - (d) Physical Control.
 - (1) As used in this subsection, "physical control" means being in the driver's position of the front seat of a vehicle and having possession of the vehicle's ignition key or other ignition device.
 - (2) A. No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:
 - 1. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 - 2. The person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (a)(1)B., C., D. or E. hereof.

- 3. Except as provided in subsection (d)(3) of this section, the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the concentration specified in subsection (a)(1)J. hereof.
- B. No person under twenty-one years of age shall be in physical control of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or while the person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (b)(1) to (4) hereof.
- (3) Subsection (d)(2)A.3. of this section does not apply to a person who is in physical control of a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in subsection (a)(1)J. hereof, if both of the following apply:

A. The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

B. The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(e) Evidence; Tests.

- (1) A. In any criminal prosecution or juvenile court proceeding for a violation of (a)(1)A. of this section or for any equivalent offense, that is vehicle-related the result of any test of any blood or urine withdrawn and analyzed at any health care provider, as defined in Ohio R.C. 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.
 - B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a) or (b) of this section or for an equivalent offense that is vehicle related, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this subsection regarding the admission of evidence does not extend or affect the two-hour time limit specified in Ohio R.C. 4511.192(A) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section.

The court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them as described in this section when a person submits to a blood, breath, urine or other bodily substance test at the request of a law enforcement officer under Ohio R.C. 4511.191, or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, an emergency medical technician-intermediate, an emergency medical technician-paramedic or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this subsection may refuse to withdraw blood under this subsection, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of

The bodily substance withdrawn under subsection (e)(1)B. hereof shall be analyzed in accordance with methods approved by the Director of Health by an individual possessing a valid permit issued by the Director pursuant to Ohio R.C. 3701.143.

C. As used in subsection (e)(1)B. of this section, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.

- (2) In a criminal prosecution or juvenile court proceeding for violation of subsection (a) of this section or for an equivalent offense that is vehicle related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (a)(1)B., C., D. and E. of this section, or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (a)(1)J. of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of subsection (b) of this section or for an equivalent offense that is substantially equivalent to that subsection.
- Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis. If the chemical test was obtained pursuant to subsection (e)(1)B. hereof, the person tested may have a physician, a registered nurse, or a qualified technician, chemist or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. If the person was under arrest as described in division (A)(5) of Ohio R.C. 4511.191, the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in division (A)(5) of Ohio R.C. 4511.191, the form to be read to the person to be tested.

as required under Ohio R.C. 4511.192, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.

- (4) A. As used in subsections (e)(4)B. and C. of this section, "national highway traffic safety administration" means the National Traffic Highway Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.
 - B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a), (b) or (d) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine, if a law enforcement officer has administered a field sobriety test to the operator or person in physical control of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:

1. The officer may testify concerning the results of the field

sobriety test so administered.

2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.

3. If testimony is presented or evidence is introduced under subsection (e)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.

C. Subsection (e)(4)B. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (e)(4)B. of this section. (ORC 4511.19; 4511.194)

(f) Forensic Laboratory Reports.

- Subject to subsection (f)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of subsection (a)(1)B., C., D., E., F., G., H., I., or J. or (b)(1), (2), (3) or (4) of this section or for an equivalent offense that is substantially equivalent to any of those subsections, a laboratory report from any laboratory personnel issued a permit by the Department of Health authorizing an analysis as described in this subsection that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this subsection shall be admitted as primafacie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:
 - A. The signature, under oath, of any person who performed the analysis;
 - B. Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found;
 - C. A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties:
 - D. An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the Department of Health.
- (2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in subsection (f)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.
- (3) A report of the type described in subsection (f)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.

(g) Immunity From Liability For Withdrawing Blood. Except as otherwise provided in this subsection, any physician, registered nurse, emergency medical technician-intermediate, emergency medical technician-paramedic, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this subsection also extends to an emergency medical service organization that employs an emergency medical technician-intermediate or emergency medical technician-paramedic who withdraws blood under this section. The immunity provided in this subsection is not available to a person who withdraws blood if the person engaged in willful or wanton misconduct.

As used in this subsection, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.

(h) General OVI Penalty.

- Whoever violates any provision of subsections (a)(1)A. to I. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates subsection (a)(1)J. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under Ohio R.C. Chapter 2929, and this Traffic Code, except as otherwise authorized or required by subsections (h)(1)A. to E. of this section:
 - A. Except as otherwise provided in subsections (h)(1)B., C., D. or E. of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all of the following:
 - 1. If the sentence is being imposed for a violation of subsections (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of three consecutive days. As used in this subsection, three consecutive days means seventy-two consecutive hours. The court may sentence an offender to both an intervention program and a jail term. The court may impose a jail term in addition to the three-day mandatory jail term or intervention program. However, in no case shall the cumulative jail term imposed for the offense exceed six months.

The court may suspend the execution of the three-day jail term under this subsection if the court, in lieu of that suspended term, places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 and requires the offender to attend, for three consecutive days, a drivers' intervention program certified under Ohio R.C. 5119.38. The court also may suspend the execution of any part of the three-day jail term under this subsection if it places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 for part of the three days, requires the offender to attend for the suspended part of the term a drivers' intervention program so certified, and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program.

The court may require the offender, as a condition of community control and in addition to the required attendance at a drivers' intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose on the offender any other conditions of community control that it considers necessary.

If the court grants unlimited driving privileges to a first-time offender under Ohio R.C. 4510.022, all penalties imposed upon the offender by the court under subsection (h)(1)A.1. of this section for the offense apply, except that the court shall suspend any mandatory or additional jail term imposed by the court under subsection (h)(1)A.1. of this section upon granting unlimited driving privileges in accordance with Ohio R.C. 4510.022.

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of at least three consecutive days and a requirement that the offender attend, for three consecutive days, a drivers' intervention program that is certified pursuant to Ohio R.C. 5119.38. As used in this subsection, three consecutive days means seventy-two consecutive hours. If the court determines that the offender is not conducive to treatment in a drivers' intervention program, if the offender refuses to attend a drivers' intervention program, or if the jail at which the offender is to serve the jail term imposed can provide a drivers' intervention program, the court shall sentence the offender to a mandatory jail term of at least six consecutive days.

If the court grants unlimited driving privileges to a first-time offender under Ohio R.C. 4510.022, all penalties imposed upon the offender by the court under subsection (h)(1)A.2. of this section for the offense apply, except that the court shall suspend any mandatory or additional jail term imposed by the court under subsection (h)(1)A.2. of this section upon granting unlimited driving privileges in accordance with Ohio R.C. 4510.022.

The court may require the offender, under a community control sanction imposed under Ohio R.C. 2929.25, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services, in addition to the required attendance at drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

3. In all cases, a fine of not less than three hundred seventy-five dollars (\$375.00) and not more than one thousand

seventy-five dollars (\$1,075).

4. In all cases, a suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege for a definite period of one to three years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022.

Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to one violation of subsection (a) or (b) of this section or one other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the

offender to all of the following:

B.

1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of ten consecutive days. The court shall impose the ten-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the ten-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction services provider that is authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine

- whether or not treatment is warranted. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.
- 2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of twenty consecutive days. The court shall impose the twenty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the twenty-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction services provider that is authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

- 3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than five hundred twenty-five dollars (\$525.00) and not more than one thousand six hundred twenty-five dollars (\$1,625).
- 4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of one to seven years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
- 5. In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for ninety days in accordance with Ohio R.C. 4503.233 and impoundment of the license plates of that vehicle for ninety days. (ORC 4511.193)

- C. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of subsection (a) or (b) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:
 - 1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
 - 2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, a mandatory jail term of sixty consecutive days. The court shall impose the sixty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of electronically monitored house arrest with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the sixty-day mandatory jail term. Notwithstanding the terms of imprisonment set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
 - 3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than eight hundred fifty dollars (\$850.00) and not more than two thousand seven hundred fifty dollars (\$2,750).
 - 4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of two to twelve years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
 - 5. In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with Ohio R.C. 4503.234. Subsection (h)(5) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this subsection. (ORC 4511.193)

- 6. In all cases, the court shall order the offender to participate with a community addiction services provider authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The operator of the services provider shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol
- D. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or four violations of subsection (a) or (b) of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature is guilty of a felony of the fourth degree and shall be prosecuted under appropriate state law.
- E. An offender who previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony of the third degree and shall be prosecuted under appropriate state law.
- (2) An offender who is convicted of or pleads guilty to a violation of subsection (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in division (F)(2) of Ohio R.C. 4511.191.
- (3) If an offender is sentenced to a jail term under subsection (h)(1)B.1. or 2. or (h)(1)C.1. or 2. of this section and if, within sixty days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing, the court may impose an alternative sentence under this subsection that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. As an alternative to a mandatory jail term of ten consecutive days required by subsection (h)(1)B.1. of this section, the court, under this subsection, may sentence the offender to five consecutive days in jail and not less than eighteen consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the five consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The five consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of twenty consecutive days required by subsection (h)(1)B.2. of this section, the court, under this subsection, may sentence the offender to ten consecutive days in jail and not less than thirty-six consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the ten consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to a mandatory jail term of thirty consecutive days required by subsection (h)(1)C.1. of this section, the court, under this subsection, may sentence the offender to fifteen consecutive days in jail and not less than fifty-five consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed one year. The fifteen consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of sixty consecutive days required by subsection (h)(1)C.2. of this section, the court, under this subsection, may sentence the offender to thirty consecutive days in jail and not less than one hundred ten consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the thirty consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under subsection (h) of this section and if Ohio R.C. 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under Ohio R.C. 4503.231, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of Ohio R.C. 4503.231.
- (5) If title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.

- (6) In all cases in which an offender is sentenced under subsection (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under subsection (h) of this section.
- (7) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:
 - A. The offender is convicted of or pleads guilty to a violation of subsection (a) of this section.
 - B. The test or tests were of the offender's whole blood, blood serum or plasma, or urine.
 - C. The test or tests indicated that the offender had a prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine at the time of the offense.
- (8) As used in subsection (h) of this section, "electronic monitoring", "mandatory prison term" and "mandatory term of local incarceration" have the same meanings as in Ohio R.C. 2929.01.
- (i) <u>Vehicle Operation After Underage Alcohol Consumption Penalty.</u> Whoever violates subsection (b) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:
 - (1) Except as otherwise provided in subsection (i)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022. If the court grants unlimited driving privileges under Ohio R.C. 4510.022, the court shall suspend any jail term imposed under subsection (i)(1) of this section as required under that section.
 - (2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) or (b) of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13.

- (3) If the offender also is convicted of or also pleads guilty to a specification of the type described in Ohio R.C. 2941.1416 and if the court imposes a jail term for the violation of subsection (b) of this section, the court shall impose upon the offender an additional definite jail term pursuant to division (E) of Ohio R.C. 2929.24.
- (4) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28, in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the violation of subsection (b) of this section. (ORC 4511.19)
- (j) <u>Physical Control Penalty.</u> Whoever violates subsection (d) hereof is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4511.194)

(k) Compliance With Ohio R.C. Chapter 5119 Standards.

- (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services.
- (2) An offender who stays in a driver's intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.
- (l) <u>Appeal Does Not Stay Operation of License Suspension.</u> If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.
- (m) Subsection (a)(1)J. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:
 - (1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
 - (2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.
- (n) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)J. of this section also apply in a prosecution of a violation of Ohio R.C. 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.

- (o) <u>Conflict of Terms.</u> All terms defined in Ohio R.C. 4510.01 apply to this section. If the meaning of a term defined in Ohio R.C. 4510.01 conflicts with the meaning of the same term as defined in Ohio R.C. 4501.01 or this Traffic Code, the term as defined in Ohio R.C. 4510.01 applies to this section. (ORC 4511.19)
- (p) <u>Indigent Drivers Alcohol Treatment Fund.</u> Twenty-five dollars (\$25.00) of any fine imposed for a violation of subsection (a) hereof shall be deposited into the municipal or county indigent drivers alcohol treatment fund pursuant to Ohio R.C. 4511.193. (ORC 4511.193)
 - (q) <u>Definitions</u>. As used in this section:
 - (1) "Equivalent offense" means any of the following:
 - A. A violation of division (A) or (B) of Ohio R.C. 4511.19;
 - B. A violation of a municipal OVI ordinance;
 - C. A violation of Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;
 - D. A violation of division (A)(1) of Ohio R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
 - E. A violation of division (A)(2), (3) or (4) of Ohio R.C. 2903.06, division (A)(2) of Ohio R.C. 2903.08, or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
 - F. A violation of division (A) or (B) of Ohio R.C. 1547.11;
 - G. A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine;
 - H. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19 or division (A) or (B) or Ohio R.C. 1547.11;
 - I. A violation of a former law of this State that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19 or division (A) or (B) of Ohio R.C. 1547.11;
 - (2) "Mandatory jail term" means the mandatory term in jail of three, six, ten, twenty, thirty, or sixty days that must be imposed under subsection (h)(1)A., B. or C. upon an offender convicted of a violation of subsection (a) hereof and in relation to which all of the following apply:
 - A. Except as specifically authorized under this section, the term must be served in a jail.
 - B. Except as specifically authorized under this section, the term cannot be suspended, reduced or otherwise modified pursuant to Ohio R.C. 2929.21 to 2929.28, or any other provision of the Ohio Revised Code.

- (3) "Municipal OVI ordinance" and "municipal OVI offense" mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum, or plasma, breath or urine.
- "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.

(1)

- (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:
 - Twenty miles per hour in school zones during school recess and Α. 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:

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

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

- D. As used in this subsection, "crosswalk" has the meaning given that term in Section 301.09. The Director may, upon request by resolution of Council, and upon submission by the Municipality of such engineering, traffic and other information as the Director considers necessary, designate a school zone on any portion of a State route lying within the Municipality that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of the crosswalk is no more than 1,320 feet. Such a school zone shall include the distance encompassed by the crosswalk and extending 300 feet on each approach direction of the State route;
- (2) Twenty-five miles per hour in all other portions of the Municipality, except on State routes outside business districts, through highways outside business districts and alleys;
- Thirty-five miles per hour on all State routes or through highways within the Municipality outside business districts, except as provided in subsections (b)(4) and (5) hereof;
- (4) Fifty miles per hour on controlled-access highways and expressways within the Municipality, except as provided in subsections (b)(8) to (b)(12) of this section:
- (5) Fifty miles per hour on State routes within the Municipality outside urban districts unless a lower prima-facie speed is established as further provided in this section;
- (6) Fifteen miles per hour on all alleys within the Municipality;
- (7) Fifty-five miles per hour on freeways with paved shoulders inside the Municipality other than freeways as provided in subsection (b)(10) and (12);
- (8) Sixty miles per hour on rural expressways with traffic control signals and on all portions of rural divided highways, except as provided in subsections (b)(9) and (10) of this section;
- (9) Sixty-five miles per hour on all rural expressways without traffic control signals;
- (10) Seventy miles per hour on all rural freeways;
- (11) Fifty-five miles per hour on all portions of freeways or expressways in congested areas as determined by the Director and that are located within a municipal corporation or within an interstate freeway outerbelt, except as provided in subsection (b)(12) of this section;

- (12) Sixty-five miles per hour on all portions of freeways or expressways without traffic control signals in urbanized areas.
- (c) It is prima-facie unlawful for any person to exceed any of the speed limitations in subsection (b)(1)A. to (b)(6) hereof, or any declared or established pursuant to this section by the Director or local authorities and it is unlawful for any person to exceed any of the speed limitations in subsection (d) hereof. No person shall be convicted of more than one violation of this section for the same conduct, although violations of more than one provision of this section may be charged in the alternative in a single affidavit.
 - (d) No person shall operate a motor vehicle upon a street or highway as follows:
 - At a speed exceeding fifty-five miles per hour, except upon a highway, expressway or freeway as provided in subsection (b)(8), (9), (10) and (12) hereof:
 - (2) At a speed exceeding sixty miles per hour upon a highway as provided in subsection (b)(8) hereof:
 - (3) At a speed exceeding sixty-five miles per hour upon an expressway as provided in subsection (b)(9) hereof, or upon a freeway as provided in subsection (b)(12) of this section, except upon a freeway as provided in subsection (b)(10) hereof;
 - (4) At a speed exceeding seventy miles per hour upon a freeway as provided in subsection (b)(10) hereof;
 - (5) At a speed exceeding the posted speed limit upon a highway, expressway or freeway for which the Director has determined and declared a speed limit pursuant to Ohio R.C. 4511.21(I)(2) or (L)(2).
- (e) In every charge of violation of this section the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven, and in charges made in reliance upon subsection (c) hereof also the speed which subsections (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section declares is prima-facie lawful at the time and place of such alleged violation, except that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to a stop within the assured clear distance ahead the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.
- (f) When a speed in excess of both a prima-facie limitation and a limitation in subsection (d) hereof is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both subsections (b)(1)A. to (b)(6) hereof, or of a limit declared or established pursuant to this section by the Director or local authorities, and of the limitation in subsection (d) hereof. If the court finds a violation of subsection (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d) hereof. If it finds no violation of subsections (b)(1)A. to (b)(6) hereof or a limit declared or established pursuant to this section, it shall then consider whether the evidence supports a conviction under subsection (d) hereof.
- (g) Points shall be assessed for violation of a limitation under subsection (d) hereof in accordance with Ohio R.C. 4510.036.
- (h) Whenever, in accordance with Ohio R.C. 4511.21 or this section, the speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima-facie unlawful for any person to exceed the speed limits posted upon such signs.

- (i) As used in this section:
 - (1) "Interstate system" has the same meaning as in 23 U.S.C.A. 101.
 - "Commercial bus" means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.
 - "Noncommercial bus" includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.
 - (4) "Outerbelt" means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.
 - (5) "Rural" means an area outside urbanized areas and outside of a business or urban district, and areas that extend within urbanized areas where the roadway characteristics remain mostly unchanged from those outside the urbanized areas.
 - (6) "Urbanized area" has the same meaning as in 23 U.S.C. 101.
 - "Divided" means a roadway having two or more travel lanes for vehicles moving in opposite directions and that is separated by a median of more than four feet, excluding turn lanes.
- (j) A violation of any provision of this section is one of the following:
 - A. Except as otherwise provided in subsections (j)(1)B., (1)C., (2) and (3) of this section, a minor misdemeanor;
 - B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;
 - C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.
 - (2) If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of Ohio R.C. 4511.21 or of any provision of a municipal ordinance that is substantially similar to Ohio R.C. 4511.21 and operated a motor vehicle faster than thirty-five miles an hour in a business district of a municipal corporation, faster than fifty miles an hour in other portions of a municipal corporation, or faster than thirty-five miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree.
 - (3) Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.

(4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.21)

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

- (a) The driver of a motor vehicle, upon approaching a stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle that is displaying the appropriate visual signals by means of flashing, oscillating or rotating lights, as prescribed in Section 337.16, shall do either of the following:
 - (1) If the driver of the motor vehicle is traveling on a street or highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle.
 - (2) If the driver is not traveling on a street or highway of a type described in subsection (a)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather and traffic conditions.
- (b) This section does not relieve the driver of a public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06, or a highway maintenance vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.
- (c) No person shall fail to drive a motor vehicle in compliance with subsection (a)(1) or (2) of this section when so required by subsection (a) of this section.
 - (d) (1) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
 - (2) Notwithstanding Section 303.99(b), upon a finding that a person operated a motor vehicle in violation of subsection (c) of this section, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation.
 - (3) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(e) The offense established under this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (ORC 4511.213)

333.04 STOPPING VEHICLE; SLOW SPEED; POSTED MINIMUM SPEEDS.

- (a) No person shall stop or operate a vehicle at such an unreasonably slow speed as to impede or block the normal and reasonable movement of traffic, except when stopping or reduced speed is necessary for safe operation or to comply with law.
- (b) Whenever, in accordance with Ohio R.C. 4511.22(B), the minimum speed limit of a controlled-access highway, expressway or freeway has been declared and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. No person shall operate a motor vehicle below the speed limits posted upon such signs except when necessary for safe operation or in compliance with law.
- (c) In a case involving a violation of this section, the trier of fact, in determining whether the vehicle was being operated at an unreasonably slow speed, shall consider the capabilities of the vehicle and its operator.
- (d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.22)

333.05 SPEED LIMITATIONS OVER BRIDGES.

- (a) No person shall operate a vehicle over any bridge or other elevated structure constituting a part of a street at a speed which is greater then the maximum speed that can be maintained with safety to such bridge or structure, when such structure is posted with authorized signs stating such maximum speed. Such signs shall be erected and maintained at a distance of at least 100 feet before each end of such structure.
- (b) Upon the trial of any person charged with a violation of this section, proof of the determination of the maximum speed and the existence of such signs shall constitute prima-facie evidence of the maximum speed which can be maintained with safety to such bridge or structure.
- (c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.23)

333.06 SPEED EXCEPTIONS FOR EMERGENCY OR SAFETY VEHICLES.

The prima-facie speed limitations set forth in Section 333.03 do not apply to emergency vehicles or public safety vehicles when they are responding to emergency calls and are equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and when the drivers thereof sound audible signals by bell, siren or exhaust whistle. This section does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons using the street or highway. (ORC 4511.24)

333.07 STREET RACING PROHIBITED.

(a) As used in this section, "street racing" means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other or the operation of one or more vehicles over a common selected course, from the same point to the same point, wherein timing is made of the participating vehicles involving competitive accelerations or speeds.

Persons rendering assistance in any manner to such competitive use of vehicles shall be equally charged as the participants. The operation of two or more vehicles side by side either at speeds in excess of prima-facie lawful speeds established by Section 333.03 or rapidly accelerating from a common starting point to a speed in excess of such prima-facie lawful speeds shall be prima-facie evidence of street racing.

- (b) No person shall participate in street racing upon any public road, street or highway in this Municipality.
- (c) Whoever violates this section is guilty of street racing, a misdemeanor of the first degree. In addition to any other sanctions, the court shall suspend the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license or nonresident operating privilege for not less than thirty days or more than three years. No judge shall suspend the first thirty days of any suspension of an offender's license, permit, or privilege imposed under this subsection. (ORC 4511.251)

333.08 OPERATION WITHOUT REASONABLE CONTROL.

- (a) No person shall operate a motor vehicle, agricultural tractor, or agricultural tractor that is towing, pulling, or otherwise drawing a unit of farm machinery on any street, highway, or property open to the public for vehicular traffic without being in reasonable control of the vehicle, agricultural tractor or unit of farm machinery.
- (b) Whoever violates this section is guilty of operating a motor vehicle or agricultural tractor without being in control of it, a minor misdemeanor. (ORC 4511.202)

333.09 RECKLESS OPERATION ON STREETS, PUBLIC OR PRIVATE PROPERTY.

- (a) No person shall operate a vehicle on any street or highway without due regard for the safety of persons or property.
- (b) No person shall operate a vehicle on any public or private property other than streets or highways, without due regard for the safety of persons or property.

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

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. In addition to the above sanctions, the Court may impose upon the offender a class seven suspension of the offender's driver's license. (Ord. 2009-3923. Passed 7-6-09.)

333.10 OPERATION IN VIOLATION OF IMMOBILIZATION ORDER.

- (a) No person shall operate a motor vehicle or permit the operation of a motor vehicle upon any public or private property used by the public for vehicular travel or parking knowing or having reasonable cause to believe that the motor vehicle has been ordered immobilized pursuant to an immobilization order issued under Ohio R.C. 4503.233.
- (b) A motor vehicle that is operated by a person during a violation of subsection (a) hereof shall be criminally forfeited in accordance with the procedures contained in Ohio R.C. 4503.234.
- (c) Whoever violates this section is guilty of a misdemeanor of the second degree. (ORC 4503.236)

333.11 TEXTING WHILE DRIVING PROHIBITED.

- (a) No person shall drive a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using a handheld electronic wireless communications device to write, send, or read a text-based communication.
 - (b) Subsection (a) of this section does not apply to any of the following:
 - (1) A person using a handheld electronic wireless communications device in that manner for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;
 - (2) A person driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person's duties;
 - (3) A person using a handheld electronic wireless communications device in that manner whose motor vehicle is in a stationary position and who is outside a lane of travel;
 - (4) A person reading, selecting, or entering a name or telephone number in a handheld electronic wireless communications device for the purpose of making or receiving a telephone call;
 - (5) A person receiving wireless messages on a device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic or weather alerts; or data used primarily by the motor vehicle:

- (6) A person receiving wireless messages via radio waves;
- (7) A person using a device for navigation purposes;
- (8) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device;
- (9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;
- (10) A person using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle.
- (c) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of subsection (a) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.
 - (d) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.
- (e) A prosecution for a violation of Ohio R.C. 4511.204 does not preclude a prosecution for a violation of a substantially equivalent municipal ordinance based on the same conduct. However, if an offender is convicted of or pleads guilty to a violation of Ohio R.C. 4511.204 and is also convicted of or pleads guilty to a violation of a substantially equivalent municipal ordinance based on the same conduct, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.
 - (f) As used in this section:
 - (1) "Electronic wireless communications device" includes any of the following:
 - A. A wireless telephone;
 - B. A text-messaging device;
 - C. A personal digital assistant;
 - D. A computer, including a laptop computer and a computer tablet;
 - E. Any other substantially similar wireless device that is designed or used to communicate text.
 - (2) "Voice-operated or hands-free device" means a device that allows the user to vocally compose or send, or to listen to a text-based communication without the use of either hand except to activate, or deactivate a feature or function.
 - (3) "Write, send or read a text-based communication" means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending, or reading communications referred to as text messages, instant messages, or electronic mail.

 (ORC 4511.204)

CHAPTER 335 Licensing; Accidents

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335.02		335.074	Driving under license forfeiture or child support suspension.
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	for in state residents.	335.09	Display of license plates or
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	prohibited while driving.		transfer of registration.
335.04	Certain acts prohibited.	335.111	Registration within thirty days
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	Driving under OVI suspension.		property other than street.
335.072	Driving under financial	335.14	Vehicle accident resulting in
	responsibility law suspension		damage to realty.
	or cancellation; driving under a	335.15	Suspension or revocation of
	nonpayment of judgement		license for reckless operation.
	suspension.		

CROSS REFERENCES

See sectional histories for similar State law
Deposit of driver's license as bond - see Ohio R.C. 2937.221
Motor vehicle licensing law - see Ohio R.C. Ch. 4503
Driver's license law - see Ohio R.C. Ch. 4507
Power of trial court of record to suspend or revoke license
for certain violations - see Ohio R.C. Ch. 4510
State point system suspension - see Ohio R.C. 4510.03.6
State accident reports - see Ohio R.C. 4509.01(J), 4509.06,
4509.74, 5502.11
Motorized bicycle operator's license - see Ohio R.C. 4511.521
Glass removal from street after accident - see TRAF. 311.01

335.01 DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE REQUIRED.

- (a) (1) No person, except those expressly exempted under Ohio R.C. 4507.03, 4507.04, and 4507.05, shall operate any motor vehicle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the person has a valid driver's license issued under Ohio R.C. Chapter 4507 or a commercial driver's license issued under Ohio R.C. Chapter 4506.
 - (2) No person, except a person expressly exempted under Ohio R.C. 4507.03, 4507.04, and 4507.05, shall operate any motorcycle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the person has a valid license as a motorcycle operator that was issued upon application by the Registrar of Motor Vehicles under Ohio R.C. Chapter 4507. The license shall be in the form of an endorsement, as determined by the Registrar, upon a driver's or commercial driver's license, if the person has a valid license to operate a motor vehicle or commercial motor vehicle, or in the form of a restricted license as provided in Ohio R.C. 4507.14, if the person does not have a valid license to operate a motor vehicle or commercial motor vehicle.
- (b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a)(1) or (2) of this section may be admitted into evidence as prima-facie evidence that the person did not have either a valid driver's or commercial driver's license at the time of the alleged violation of subsection (a)(1) of this section or a valid license as a motorcycle operator either in the form of an endorsement upon a driver's or commercial driver's license or a restricted license at the time of the alleged violation of subsection (a)(2) of this section. The person charged with a violation of subsection (a)(1) or (2) of this section may offer evidence to rebut this prima-facie evidence.
- (c) Whoever violates this section is guilty of operating a motor vehicle or motorcycle without a valid license and shall be punished as follows:
 - (1)If the trier of fact finds that the offender never has held a valid driver's or commercial driver's license issued by this state or any other jurisdiction, or, in a case involving the operation of a motorcycle by the offender, if the offender has never held a valid license as a motorcycle operator, either in the form of an endorsement upon a driver's or commercial driver's license or in the form of a restricted license, except as otherwise provided in this subsection, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours.

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

- (2) If the offender's driver's or commercial driver's license or permit or, in a case involving the operation of a motorcycle by the offender, the offender's driver's or commercial driver's license bearing the motorcycle endorsement or the offender's restricted license was expired at the time of the offense, except as otherwise provided in this subsection, the offense is a minor misdemeanor. If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.
- (d) The court shall not impose a license suspension for a first violation of this section or if more than three years have passed since the offender's last violation of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance.
- (e) If the offender is sentenced under subsection (c)(2) hereof, if within three years of the offense the offender previously was convicted of or pleaded guilty to one or more violations of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, and if the offender's license was expired for more than six months at the time of the offense, the court may impose a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4510.12)

335.02 PERMITTING OPERATION WITHOUT VALID LICENSE; ONE LICENSE PERMITTED.

- (a) No person shall permit the operation of a motor vehicle upon any public or private property used by the public for purposes of vehicular travel or parking knowing the operator does not have a valid driver's license issued to the operator by the Registrar of Motor Vehicles 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))

- (1) (c) 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.
 - 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.
 - "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;
 - 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:

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:

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

- or Ohio R.C. 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender may order the immobilization of the vehicle involved in the offense for sixty days and the impoundment of that vehicle's license plates for sixty days in accordance with Ohio R.C. 4503.233.
- C. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 4510.11, or any combination of three or more violations of Ohio R.C. 4501.11 or Ohio R.C. 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender may order the criminal forfeiture of the vehicle involved in the offense to the State.
- (e) Any order for immobilization and impoundment under this section shall be issued and enforced under Ohio R.C. 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.
- (f) Any order of criminal forfeiture under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of the copy of the order from the court, neither the Ohio Registrar of Motor Vehicles nor a deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order, unless, during that period, the court having jurisdiction of the offense that lead to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar shall then take necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.
- (g) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under this section. (ORC 4510.11)
- (h) Any person whose driver's or commercial driver's license or permit or nonresident operating privileges are suspended as a repeat traffic offender under this section and who, during the suspension, operates any motor vehicle upon any public roads and highways is guilty of driving under a twelve-point suspension, a misdemeanor of the first degree. The court shall sentence the offender to a minimum term of three days in jail. No court shall suspend the first three days of jail time imposed pursuant to this subsection. (ORC 4510.037)

335.071 DRIVING UNDER OVI SUSPENSION.

- (a) No person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under Ohio R.C. 4511.19, 4511.191, or 4511.196 or under Ohio R.C. 4510.07 for a conviction of a violation of a municipal OVI ordinance shall operate any motor vehicle upon the public roads or highways within this Municipality during the period of the suspension.
- (b) Whoever violates this section is guilty of driving under OVI suspension. The court shall sentence the offender under Ohio R.C. Chapter 2929, subject to the differences authorized or required by this section.

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

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

- (d) Fifty per cent of any fine imposed by a court under subsection (b)(1), (2) or (3) of this section shall be deposited into the county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund under the control of that court, as created by the county or municipal corporation pursuant to division (H) of Ohio R.C. 4511.191.
- (e) In addition to or independent of all other penalties provided by law or ordinance, the trial judge of any court of record or the mayor of a mayor's court shall impose on an offender who is convicted of or pleads guilty to a violation of this section a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.

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

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

- (f) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense that is a misdemeanor of the first degree under this section for which the offender is sentenced. (ORC 4510.14)
 - (g) (1) If a person is convicted of or pleads guilty to a violation of a municipal ordinance that is substantially equivalent to Ohio R.C. 4510.14, the court, in addition to and independent of any sentence that it imposes upon the offender for the offense, if the vehicle the offender was operating at the time of the offense is registered in the offender's name, shall do whichever of the following is applicable:
 - A. If, within six years of the current offense, the offender has not been convicted of or pleaded guilty to a violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for thirty days of the vehicle involved in the offense and the impoundment for thirty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.
 - B. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for sixty days of the vehicle involved in the offense and the impoundment for sixty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.

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

 (ORC 4510.14)

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

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

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

- (b) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality if the person's driver's or commercial driver's license or temporary instruction permit or nonresident operating privilege has been suspended pursuant to Ohio R.C. 4509.37 or 4509.40 for nonpayment of a judgment.
- (c) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth and social security number of a person charged with a violation of subsection (a) or (b) of this section may be admitted into evidence as prima-facie evidence that the license of the person was under either a financial responsibility law suspension at the time of the alleged violation of subsection (a) of this section or a nonpayment of judgment suspension at the time of the alleged violation of subsection (b) of this section. The person charged with a violation of subsection (a) or (b) of this section may offer evidence to rebut this prima-facie evidence.
- (d) Whoever violates subsection (a) of this section is guilty of driving under financial responsibility law suspension or cancellation and shall be punished as provided in subsection (d) hereof. Whoever violates subsection (b) of this section is guilty of driving under a nonpayment of judgment suspension and shall be punished as provided in subsection (d) hereof.
 - Except as otherwise provided in subsection (d)(2) of this section, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
 - (2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.16, or any combination of two violations of Ohio R.C. 4510.16 or Ohio R.C. 4510.11 or 4510.111, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree.
 - (3) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section.

(ORC 4510.16)

(e) No person who has knowingly failed to maintain proof of financial responsibility in accordance with Ohio R.C. 4509.101 shall produce any document or present to a peace officer an electronic wireless communications device that is displaying any text or images with the purpose to mislead a peace officer upon the request of a peace officer for proof of financial responsibility made in accordance with Ohio R.C. 4509.101. Whoever violates this subsection (e) hereof is guilty of falsification, a misdemeanor of the first degree. (ORC 4509.102)

335.073 DRIVING WITHOUT COMPLYING WITH LICENSE REINSTATEMENT REQUIREMENTS.

- (a) No person whose driver's license, commercial driver's license, temporary instruction permit, or nonresident's operating privilege has been suspended shall operate any motor vehicle upon a public road or highway or any public or private property after the suspension has expired unless the person has complied with all license reinstatement requirements imposed by the court, the Bureau of Motor Vehicles, or another provision of the Ohio Revised Code.
- (b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) of this section may be admitted into evidence as prima-facie evidence that the license of the person had not been reinstated by the person at the time of the alleged violation of subsection (a) hereof. The person charged with a violation of subsection (a) hereof may offer evidence to rebut this prima-facie evidence.
- (c) Whoever violates this section is guilty of failure to reinstate a license and shall be punished as follows:
 - (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) hereof is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
 - (2) If, within three years of a violation of subsection (a) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of Ohio R.C. 4510.21(A) or a substantially equivalent municipal ordinance, the offender is guilty of a misdemeanor of the first degree.
 - (3) In all cases, the court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary driver's license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4510.21)

335.074 DRIVING UNDER LICENSE FORFEITURE OR CHILD SUPPORT SUSPENSION.

- (a) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality whose driver's or commercial driver's license has been suspended pursuant to Ohio R.C. 2151.354, 2151.87, 2935.27, 3123.58, 4301.99, 4510.032, 4510.22 or 4510.33.
- (b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) of this section may be admitted into evidence as primafacie evidence that the license of the person was under suspension at the time of the alleged violation of subsection (a) of this section. The person charged with a violation of subsection (a) of this section may offer evidence to rebut this prima-facie evidence.
- (c) Whoever violates subsection (a) of this section is guilty of driving under suspension and shall be punished as provided in subsection (c) of this section.
 - (1) Except as otherwise provided in subsection (c)(2) of this section, the offense is an unclassified misdemeanor. The offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
 - If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of subsection (A) of Ohio R.C. 4510.111, or any combination of two or more violations of subsection (A) of Ohio R.C. 4510.111, or Ohio R.C. 4510.11 or 4510.16, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree and the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section. (ORC 4510.111)

335.08 OPERATION OR SALE WITHOUT CERTIFICATE OF TITLE.

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

(1) Operate in this Municipality a motor vehicle for which a certificate of title is required without having that certificate in accordance with Ohio R.C. Chapter 4505 or, if a physical certificate of title has not been issued for a motor vehicle, operate the motor vehicle in this Municipality knowing that the ownership information relating to the vehicle has not been entered into the automated title processing system by a clerk of a court of common pleas;

- (2) Display or display for sale or sell as a dealer or acting on behalf of a dealer, a motor vehicle without having obtained a manufacturer's or importer's certificate, a certificate of title, or an assignment of a certificate of title for it as provided in Ohio R.C. Chapter 4505;
- (3) Fail to surrender any certificate of title or any certificate of registration or license plates upon cancellation of the same by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in Ohio R.C. Chapter 4505:
- (4) Fail to surrender the certificate of title to a clerk of a court of common pleas as provided in Ohio R.C. Chapter 4505 in case of the destruction or dismantling or change of a motor vehicle in such respect that it is not the motor vehicle described in the certificate of title;

(5) Violate any rules adopted pursuant to Ohio R.C. Chapter 4505;

- (6) Except as otherwise provided in Ohio R.C. Chapter 4505 and Chapter 4517, sell at wholesale a motor vehicle the ownership of which is not evidenced by an Ohio certificate of title, or the current certificate of title issued for the motor vehicle, or the manufacturer's certificate of origin, and all title assignments that evidence the seller's ownership of the motor vehicle, and an odometer disclosure statement that complies with Ohio R.C. 4505.06 and subchapter IV of the "Motor Vehicle Information and Cost Savings Act", 86 Stat. 961 (1972), 15 U.S.C. 1981;
- (7) Operate in this Municipality a motor vehicle knowing that the certificate of title to the vehicle or ownership of the vehicle as otherwise reflected in the automated title processing system has been canceled.
- (b) This section does not apply to persons engaged in the business of warehousing or transporting motor vehicles for the purpose of salvage disposition.
- (c) Whoever violates this section shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than ninety days, or both. (ORC 4505.18)

335.09 DISPLAY OF LICENSE PLATES OR VALIDATION STICKERS; REGISTRATION.

- (a) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the rear of the motor vehicle a license plate that displays the distinctive number and registration mark assigned to the motor vehicle by the Ohio Director of Public Safety, including any county identification sticker and any validation sticker 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.

- (e) No person shall park or operate any vehicle upon any public street or highway upon which are displayed any license plates not legally registered and issued for such vehicle, or upon which are displayed any license plates that were issued on an application for registration that contains any false statement by the applicant.
 - (f) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.
 - Whoever violates subsection (b) hereof is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense.
 - Whoever violates any provision of this section for which no other penalty is provided is guilty of a minor misdemeanor. (ORC 4549.11; 4549.12)

335.11 USE OF ILLEGAL LICENSE PLATES; TRANSFER OF REGISTRATION.

- (a) No person shall operate or drive a motor vehicle upon the streets in this Municipality if it displays a license plate or a distinctive number or identification mark that meets any of the following criteria:
 - (1) Is fictitious;
 - (2) Is a counterfeit or an unlawfully made copy of any distinctive number or identification mark:
 - (3) Belongs to another motor vehicle, provided that this section does not apply to a motor vehicle that is operated on the streets in this Municipality when the motor vehicle displays license plates that originally were issued for a motor vehicle that previously was owned by the same person who owns the motor vehicle that is operated on the streets in this Municipality, during the thirty-day period described in subsection (c) hereof.
- (b) Whoever violates subsection (a)(1), (2) or (3) of this section is guilty of operating a motor vehicle bearing an invalid license plate or identification mark, a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense. (ORC 4549.08)
- (c) Upon the transfer of ownership of a motor vehicle, the registration of the motor vehicle expires, and the original owner shall immediately remove the license plates from the motor vehicle. The transfer of the registration and, where applicable, the license plates from the motor vehicle for which they originally were issued to a succeeding motor vehicle purchased by the same person in whose name the original registration and license plates were issued shall be done within a period not to exceed thirty days. During that thirty-day period, the license plates from the motor vehicle for which they originally were issued may be displayed on the succeeding motor vehicle, and the succeeding motor vehicle may be operated on the streets of the Municipality.
- (d) Whoever violates subsection (c) of this section is guilty of a misdemeanor of the fourth degree. (ORC 4503.12)

335.111 REGISTRATION WITHIN THIRTY DAYS OF RESIDENCY.

(a) Within thirty days of becoming a resident of this State, any person who owns a motor vehicle operated or driven upon the public roads or highways shall register the vehicle in this State. If such a person fails to register a vehicle owned by the person, the person shall not operate any motor vehicle in this Municipality under a license issued by another state.

- (b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.
 - (2) The offense established under subsection (b)(1) of this section is a strict liability offense and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.
- (c) For purposes of subsection (a) of this section, "resident" means any person to whom any of the following applies:
 - (1) The person maintains their principal residence in this State and does not reside in this State as a result of the person's active service in the United States Armed Forces.
 - (2) The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the Registrar under Ohio R.C. 4507.01. (ORC 4503.111)

335.12 STOPPING AFTER ACCIDENT UPON STREETS; COLLISION WITH UNATTENDED VEHICLE.

- (a) (1) In the case of a motor vehicle accident or collision with persons or property on a public road or highway, the operator of the motor vehicle, having knowledge of the accident or collision, immediately shall stop the operator's motor vehicle at the scene of the accident or collision. The operator shall remain at the scene of the accident or collision until the operator has given the operator's name and address and, if the operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, to all of the following:
 - A. Any person injured in the accident or collision;
 - B. The operator, occupant, owner or attendant of any motor vehicle damaged in the accident or collision;
 - C. The police officer at the scene of the accident or collision.
 - In the event an injured person is unable to comprehend and record the information required to be given under subsection (a)(1) of this section, the other operator involved in the accident or collision shall notify the nearest police authority concerning the location of the accident or collision, and the operator's name, address and the registered number of the motor vehicle the operator was operating. The operator shall remain at the scene of the accident or collision until a police officer arrives, unless removed from the scene by an emergency vehicle operated by a political subdivision or an ambulance.
 - (3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.
- (b) (1) Whoever violates subsection (a) of this section is guilty of failure to stop after an accident. Except as otherwise provided in subsection (b)(2) or (3) of this section, failure to stop after an accident is a misdemeanor of the first degree.
 - (2) If the accident or collision results in serious physical harm to a person, failure to stop after an accident is a felony and shall be prosecuted under appropriate State law.

- (3) If the accident or collision results in the death of a person, failure to stop after an accident is a felony and shall be prosecuted under appropriate State law.
- (4) In all cases, the court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this subsection.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.02)

335.13 STOPPING AFTER ACCIDENT UPON PROPERTY OTHER THAN STREET.

- (a) (1) In the case of a motor vehicle accident or collision resulting in injury or damage to persons or property on any public or private property other than a public road or highway, the operator of the motor vehicle, having knowledge of the accident or collision, shall stop at the scene of the accident or collision. Upon request of any person who is injured or damaged, or any other person, the operator shall give that person the operator's name and address, and, if the operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, and, if available, exhibit the operator's driver's or commercial driver's license.
 - (2) If the operator of the motor vehicle involved in the accident or collision does not provide the information specified in subsection (a)(1) of this section, the operator shall give that information, within twenty-four hours after the accident or collision, to the Police Department.
 - (3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required under subsection (a)(1) of this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.
- (b) (1) Whoever violates subsection (a) of this section is guilty of failure to stop after a nonpublic road accident. Except as otherwise provided in subsection (b)(2) or (3) of this section, failure to stop after a nonpublic road accident is a misdemeanor of the first degree.
 - (2) If the accident or collision results in serious physical harm to a person, failure to stop after a nonpublic road accident is a felony and shall be prosecuted under appropriate State law.
 - (3) If the accident or collision results in the death of a person, failure to stop after a nonpublic road accident is a felony and shall be prosecuted under appropriate State law.

(4) In all cases, the court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this subsection.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.021)

335.14 VEHICLE ACCIDENT RESULTING IN DAMAGE TO REALTY.

(a) The driver of any vehicle involved in an accident resulting in damage to real property, or personal property attached to real property, legally upon or adjacent to a public road or highway immediately shall stop and take reasonable steps to locate and notify the owner or person in charge of the property of that fact, of the driver's name and address, and of the registration number of the vehicle the driver is driving and, upon request and if available, shall exhibit the driver's or commercial driver's license.

If the owner or person in charge of the property cannot be located after reasonable search, the driver of the vehicle involved in the accident resulting in damage to the property, within twenty-four hours after the accident, shall forward to the police authority in the municipality in which the accident or collision occurred, the same information required to be given to the owner or person in control of the property and give the location of the accident and a description of the damage insofar as it is known.

(b) Whoever violates subsection (a) of this section is guilty of failure to stop after an accident involving the property of others, a misdemeanor of the first degree.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.03)

335.15 SUSPENSION OR REVOCATION OF LICENSE FOR RECKLESS OPERATION.

Whenever a person is found guilty of operating a vehicle in violation of any ordinance relating to reckless operation, the court, in addition to or independent of all other penalties provided by law, may impose a Class 5 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 Section 4510.02 of the Ohio Revised Code.

Suspension of a commercial driver's license under this section shall be concurrent with any period of suspension disqualification under Section 3123.58 or 4506.16 of the Ohio Revised Code. No person who is disqualified for life from holding a commercial driver's license under Section 4506.16 of the Ohio Revised Code shall be issued a driver's license under Chapter 4507 of the Ohio Revised Code 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 Chapter 4507 of the Ohio Revised Code, during the period of suspension.

(Ord. 2015-4215. Passed 2-17-15.)

CHAPTER 337 Safety and Equipment

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CROSS REFERENCES

See sectional histories for similar State law
Warning devices for commercial vehicles disabled upon freeways see Ohio R.C. 4513.28
Slow moving vehicle emblem - see OAC Ch. 4501.13
Motorized bicycle lights and equipment - see Ohio R.C. 4511.521
Vehicle lighting - see OAC 4501-15
Use of stop and turn signals - see TRAF. 331.14
Wheel protectors for commercial vehicles - see TRAF. 339.05
Vehicles transporting explosives - see TRAF. 339.06
Towing requirements - see TRAF. 339.07
Use of studded tires and chains - see TRAF. 339.11
Bicycle equipment - see TRAF. 373.05 et seq.

337.01 DRIVING UNSAFE VEHICLES.

- (a) No person shall drive or move, or cause or knowingly permit to be driven or moved, on any street any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or property.
- (b) Nothing contained in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.
- (c) The provisions of this chapter with respect to equipment on vehicles do not apply to implements of husbandry, road machinery, road rollers or agricultural tractors except as made applicable to such articles of machinery. (ORC 4513.02)
- (d) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.99)

337.02 LIGHTED LIGHTS; MEASUREMENT OF DISTANCES AND HEIGHTS.

(a) Every vehicle, other than a motorized bicycle, operated upon a street or highway shall display lighted lights and illuminating devices as required by this chapter during all of the following times:

(1) The time from sunset to sunrise;

- At any other time when, due to insufficient natural light or unfavorable atmospheric conditions, persons, vehicles, and substantial objects on the street or highway are not discernible at a distance of one thousand feet ahead;
- At any time when the windshield wipers of the vehicle are in use because of precipitation on the windshield.

Every motorized bicycle shall display at such times lighted lights meeting the rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4511.521. No motor vehicle, during any time specified in this section, shall be operated upon a street or highway using only parking lights as illumination.

- (b) Whenever in this chapter a requirement is declared as to the distance from which certain lights and devices shall render objects visible, or within which such lights or devices shall be visible, such distance shall be measured upon a straight level unlighted street under normal atmospheric conditions unless a different condition is expressly stated.
- (c) Whenever in this chapter a requirement is declared as to the mounted height of lights or devices, it shall mean from the center of such light or device to the level ground upon which the vehicle stands.
- (d) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause the operator of a vehicle being operated upon a street or highway to stop the vehicle solely because the officer observes that a violation of subsection (a)(3) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that subsection, or causing the arrest of or commencing a prosecution of a person for a violation of that subsection.

(e) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.03)

337.03 HEADLIGHTS ON MOTOR VEHICLES AND MOTORCYCLES.

- (a) Every motor vehicle, other than a motorcycle, shall be equipped with at least two headlights with at least one near each side of the front of the motor vehicle.
- (b) Every motorcycle shall be equipped with at least one and not more than two headlights.
- (c) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.04)

337.04 TAIL LIGHT; ILLUMINATION OF REAR LICENSE PLATE.

- (a) Every motor vehicle, trailer, semitrailer, pole trailer or vehicle which is being drawn at the end of a train of vehicles shall be equipped with at least one tail light mounted on the rear which, when lighted, shall emit a red light visible from a distance of 500 feet to the rear, provided that in the case of a train of vehicles only the tail light on the rear-most vehicle need be visible from the distance specified.
- (b) Either a tail light or a separate light shall be so constructed and placed as to illuminate with a white light the rear registration plate, when such registration plate is required, and render it legible from a distance of fifty feet to the rear. Any tail light, together with any separate light for illuminating the rear registration plate, shall be so wired as to be lighted whenever the headlights or auxiliary driving lights are lighted, except where separate lighting systems are provided for trailers for the purpose of illuminating such registration plate.
- (c) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.05)

337.05 REAR RED REFLECTORS.

- (a) Every new motor vehicle sold after September 6, 1941, and operated on a street, other than vehicles of the type mentioned in Section 337.06 or a commercial tractor to which a trailer or semitrailer is attached, shall carry at the rear, either as a part of the tail lights or separately, two red reflectors of such size and characteristics and so maintained as to be visible at night from all distances within 300 feet to fifty feet from such vehicle.
- (b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.06)

337.06 SAFETY LIGHTING ON COMMERCIAL VEHICLES.

(a) Buses, trucks, commercial tractors, trailers, semitrailers and pole trailers, when operated upon any street, shall be equipped with clearance lights, marker lights, reflectors and stop lights as required by State regulations. Such equipment shall be lighted at all times mentioned in Section 337.02 except that clearance lights and side marker lights need not be lighted on a vehicle operated where there is sufficient light to reveal any person or substantial object on the street at a distance of 500 feet.

Such equipment shall be in addition to all other lights specifically required by Section 337.02 to Section 337.15, inclusive. Vehicles operated under the jurisdiction of the Ohio Public Utilities Commission are not subject to this section.

(b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.07)

337.07 OBSCURED LIGHTS ON VEHICLES IN COMBINATION.

- (a) Whenever motor and other vehicles are operated in combination during the time that lights are required, any light, except tail lights, which by reason of its location on a vehicle of the combination would be obscured by another vehicle of the combination need not be lighted, but this section does not affect the requirement that lighted clearance lights be displayed on the front of the foremost vehicle required to have clearance lights or that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.
- (b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree. (ORC 4513.08)

337.08 RED LIGHT OR RED FLAG ON EXTENDED LOADS.

- (a) Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in Section 337.02, a red light or lantern plainly visible from a distance of at least 500 feet to the side and rear. The red light or lantern required by this section is in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than sixteen inches square.
- (b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.09)

337.09 LIGHTS ON PARKED OR STOPPED VEHICLES.

- (a) Except in case of an emergency, whenever a vehicle is parked or stopped upon a roadway open to traffic or shoulder adjacent thereto, whether attended or unattended during the times mentioned in Section 337.02, such vehicle shall be equipped with one or more lights which shall exhibit a white or amber light on the roadway side visible from a distance of 500 feet to the front of such vehicle, and a red light visible from a distance of 500 feet to the rear. No lights need be displayed upon any such vehicle when it is stopped or parked where there is sufficient light to reveal any person or substantial object within a distance of 500 feet upon such street. Any lighted headlights upon a parked vehicle shall be depressed or dimmed. (ORC 4513.10)
- (b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.99)

337.10 LIGHTS ON SLOW-MOVING VEHICLES; EMBLEM REQUIRED.

(a) All vehicles other than bicycles, including animal-drawn vehicles and vehicles referred to in Section 337.01(c), not specifically required to be equipped with lights or other lighting devices by Section 337.02 to 337.09, shall at all times specified in Section 337.02, be equipped with at least one light displaying a white light visible from a distance of not less than 1,000 feet to the front of the vehicle, and also shall be equipped with two lights displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle, or as an alternative, one light displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 feet to 100 feet to the rear when illuminated by the lawful lower beams of headlights.

Lights and reflectors required or authorized by this section shall meet standards adopted by the Ohio Director of Public Safety.

(b) All boat trailers, farm machinery and other machinery, including all road construction machinery, upon a street or highway, except when being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used, or when operating or traveling within the limits of a construction area designated by the Ohio Director of Transportation, or the Municipal or County Engineer, when such construction area is marked in accordance with requirements of the Director and the Manual of Uniform Traffic Control Devices, as set forth in Ohio R.C. 4511.09, which is designed for operation at a speed of twenty-five miles per hour or less shall be operated at a speed not exceeding twenty-five miles per hour, and shall display a triangular slow-moving vehicle emblem (SMV). The emblem shall be mounted so as to be visible from a distance of not less than 500 feet to the rear. The Ohio Director of Public Safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for SMV emblems referred to in this section shall correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers.

A unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour may be operated on a street or highway at a speed greater than twenty-five miles per hour provided it is operated in accordance with this section.

As used in this subsection (b), "machinery" does not include any vehicle designed to be drawn by an animal.

(c) The use of the SMV emblem shall be restricted to animal-drawn vehicles, and to the slow-moving vehicles specified in subsection (b) hereof operating or traveling within the limits of the highway. Its use on slow-moving vehicles being transported upon other types of vehicles or on any other type of vehicle or stationary object on the highway is prohibited.

- No person shall sell, lease, rent or operate any boat trailer, farm machinery (d) (1) or other machinery defined as a slow-moving vehicle in subsection (b) hereof, except those units designed to be completely mounted on a primary power unit, which is manufactured or assembled on or after April 1, 1966, unless the vehicle is equipped with a slow-moving vehicle emblem mounting device as specified in subsection (b) hereof.
 - No person shall sell, lease, rent, or operate on a street or highway any unit (2) of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the unit displays a slowmoving vehicle emblem as specified in subsection (b) of this section and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/ASAE S584 JAN2005, agricultural equipment; speed identification symbol (SIS).
- Any boat trailer, farm machinery, or other machinery defined as a slow-moving vehicle in subsection (b) of this section, in addition to the use of the slow-moving vehicle emblem, and any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour, in addition to the display of a speed identification symbol may be equipped with a red flashing light that shall be visible from a distance of not less than one thousand feet to the rear at all times specified in Section 337.02. When a double-faced light is used, it shall display amber light to the front and red light to the rear.

In addition to the lights described in this subsection, farm machinery and motor vehicles escorting farm machinery may display a flashing, oscillating or rotating amber light, as permitted by Section 337.16, and also may display simultaneously flashing turn signals or warning lights, as permitted by that section.

- Every animal-drawn vehicle upon a street or highway shall at all times be equipped in one of the following ways:
 - With a slow-moving vehicle emblem complying with subsection (b) hereof; (1)
 - With alternate reflective material complying with rules adopted under this (2)subsection (f);
 - With both a slow-moving vehicle emblem and alternate reflective material (3)as specified in this subsection (f).

The Ohio Director of Public Safety, subject to Ohio R.C. Chapter 119, shall adopt rules establishing standards and specifications for the position of mounting of the alternate reflective material authorized by this subsection (f). The rules shall permit, as a minimum, the alternate reflective material to be black, gray or silver in color. The alternate reflective material shall be mounted on the animal-drawn vehicle so as to be visible at all times specified in Section 337.02, from a distance of not less than 500 feet to the rear when illuminated by the lawful lower beams of headlamps.

Every unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour shall display a slow-moving vehicle emblem and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/ASAE S584 JAN2005, agricultural equipment; speed identification symbol (SIS) when the unit is operated upon a street or highway, irrespective of the speed at which the unit is operated on the street or highway. The speed identification symbol shall indicate the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate. The display of the speed identification symbol shall be in accordance with the standard prescribed in this subsection.

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

- (h) When an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour is being operated on a street or highway at a speed greater than twenty-five miles per hour, the operator shall possess some documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate.
- (i) As used in this section, "boat trailer" means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.
- (j) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.11)

337.11 SPOTLIGHT AND AUXILIARY LIGHTS.

- (a) Any motor vehicle may be equipped with not more than one spotlight and every lighted spotlight shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle, nor more than 100 feet ahead of the vehicle.
- (b) Any motor vehicle may be equipped with not more than three State approved auxiliary driving lights mounted on the front of the vehicle, which when used shall conform to State regulations.
- (c) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.12)

337.12 COWL, FENDER AND BACK-UP LIGHTS.

- (a) Any motor vehicle may be equipped with side cowl or fender lights or lights on each side thereof which shall emit a white or amber light without glare.
- (b) Any motor vehicle may be equipped with back-up lights, either separately or in combination with another light. No back-up lights shall be continuously lighted when the motor vehicle is in forward motion.
- (c) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.13)

337.13 DISPLAY OF LIGHTED LIGHTS.

- (a) At all times mentioned in Section 337.02 at least two State approved lighted lights shall be displayed conforming to State regulations, one near each side of the front of every motor vehicle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles. (ORC 4513.14)
- (b) However, on a motorcycle, there shall be displayed at least one and not more than two lighted lights as required herein.
- (c) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.14)

337.14 USE OF HEADLIGHT BEAMS.

- (a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in Section 337.02, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons, vehicles and substantial objects at a safe distance in advance of the vehicle, except that upon approaching an oncoming vehicle, the lights or beams shall be so aimed that the glaring rays are not projected into the eyes of the oncoming driver.
- (b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.15)

337.15 LIGHTS OF LESS INTENSITY ON SLOW-MOVING VEHICLES.

- (a) Any motor vehicle may be operated under the conditions specified in Section 337.02 when it is equipped with two lighted lights upon the front thereof capable of revealing persons and substantial objects seventy-five feet ahead in lieu of lights required in Section 337.13, provided that such vehicle shall not be operated at a speed in excess of twenty miles per hour.
- (b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.16)

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

- (a) Whenever a motor vehicle equipped with headlights also is equipped with any auxiliary lights or spotlight or any other light on the front thereof projecting a beam of an intensity greater than 300 candle power, not more than a total of five of any such lights on the front of a vehicle shall be lighted at any one time when the vehicle is upon a highway.
- (b) Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights or auxiliary driving lights, that projects a beam of light of an intensity greater than 300 candle power, shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

- (c) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing. This prohibition does not apply to emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash or recyclable materials on the roadside, rural mail delivery vehicles, vehicles transporting preschool children as provided in Ohio R.C. 4513.182, highway maintenance vehicles, funeral hearses, funeral escort vehicles and similar equipment operated by the Department or local authorities, which shall be equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating amber light, but shall not display a flashing, oscillating or rotating light of any other color, nor to vehicles or machinery permitted by Section 337.10 to have a flashing red light.
 - When used on a street or highway, farm machinery and vehicles escorting farm machinery may be equipped with and display a flashing, oscillating, or rotating amber light, and the prohibition contained in subsection (c)(1) hereof does not apply to such machinery or vehicles. Farm machinery also may display the lights described in Section 337.10.
- (d) Except a person operating a public safety vehicle, as defined in Section 301.27, or a school bus, no person shall operate, move or park upon or permit to stand within the right of way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light; and except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the State or Municipality, operating a public safety vehicle when on duty, no person shall operate, move or park upon, or permit to stand within the right of way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.
- (e) This section does not prohibit the use of warning lights required by law or the simultaneous flashing of turn signals on disabled vehicles or on vehicles being operated in unfavorable atmospheric conditions in order to enhance their visibility. This section also does not prohibit the simultaneous flashing of turn signals or warning lights either on farm machinery or vehicles escorting farm machinery, when used on a street or highway.
- (f) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.17)

337.17 FOCUS AND AIM OF HEADLIGHTS.

- (a) No person shall use any lights mentioned in Section 337.02 to 337.16, inclusive, upon any motor vehicle, trailer or semitrailer unless the lights are equipped, mounted and adjusted as to focus and aim in accordance with State regulations.
- (b) The headlights on any motor vehicle shall comply with the headlamp color requirements contained in federal motor vehicle safety standard number 108, 49 C.F.R. 571.108. No person shall operate a motor vehicle in violation of this subsection.
- (c) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.19)

337.18 MOTOR VEHICLE AND MOTORCYCLE BRAKES.

- (a) The following requirements govern as to brake equipment on vehicles:
 - (1) Every motor vehicle, other than a motorcycle, when operated upon a street or highway, shall be equipped with brakes adequate to control the movement of and to stop and hold such motor vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, then on such motor vehicles manufactured or assembled after January 1, 1942, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.
 - (2) Every motorcycle, when operated upon a street or highway, shall be equipped with at least one adequate brake, which may be operated by hand or by foot.
 - (3) Every motorized bicycle shall be equipped with brakes meeting the rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4511.521.
 - (4) When operated upon the streets or highways of this Municipality, the following vehicles shall be equipped with brakes adequate to control the movement of and to stop and to hold the vehicle designed to be applied by the driver of the towing motor vehicle from its cab, and also designed and connected so that, in case of a breakaway of the towed vehicle, the brakes shall be automatically applied:
 - A. Except as otherwise provided in this section, every trailer or semitrailer, except a pole trailer, with an empty weight of two thousand pounds or more, manufactured or assembled on or after January 1, 1942;
 - B. Every manufactured home or travel trailer with an empty weight of two thousand pounds or more, manufactured or assembled on or after January 1, 2001.
 - (5) Every watercraft trailer with a gross weight or manufacturer's gross vehicle weight rating of three thousand pounds or more that is manufactured or assembled on or after January 1, 2008, shall have separate brakes equipped with hydraulic surge or electrically operated brakes on two wheels.
 - (6) In any combination of motor-drawn trailers or semitrailers equipped with brakes, means shall be provided for applying the rearmost brakes in approximate synchronism with the brakes on the towing vehicle, and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost brakes; or both of the above means, capable of being used alternatively, may be employed.
 - (7) Every vehicle and combination of vehicles, except motorcycles and motorized bicycles, and except trailers and semitrailers of a gross weight of less than 2,000 pounds, and pole trailers, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular

effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other sources of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind.

(8) The same brake drums, brake shoes and lining assemblies, brake shoe anchors, and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

(9) Every motor vehicle or combination of motor-drawn vehicles shall be capable at all times and under all conditions of loading of being stopped on a dry, smooth, level road free from loose material, upon application of the service or foot brake, within the following specified distances, or shall be capable of being decelerated at a sustained rate corresponding to these

distances:

]	From a speed of 20 mile	m a speed of 20 miles per hour	
		Deceleration in	
	Stopping distance	feet per second	
_	<u>in feet</u>	per second	
Brakes on all wheels	30	14	
Brakes not on all four whee	els 40	10.7	

- (10) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. (ORC 4513.20)
- (b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.99)

337.19 HORN, SIREN AND THEFT ALARM SIGNAL.

- (a) Every motor vehicle when operated upon a street shall be equipped with a horn which is in good working order and capable of emitting sound audible, under normal conditions, from a distance of not less than 200 feet.
- (b) No motor vehicle shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal. Every emergency or public safety vehicle shall be equipped with a siren, whistle or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the Ohio Director of Public Safety. Such equipment shall not be used except when such vehicle is operated in response to an emergency call or is in the immediate pursuit of an actual or suspected violator of the law, in which case the driver of the emergency or public safety vehicle shall sound such equipment when it is necessary to warn pedestrians and other drivers of the approach thereof.

- (c) No person shall use the horn of a motor vehicle except to give warning to other drivers or pedestrians.
 - (d) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.21)

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337.20 MUFFLER; MUFFLER CUTOUT; EXCESSIVE SMOKE, GAS OR NOISE.

- (a) Every motor vehicle and motorcycle with an internal combustion engine shall at all times be equipped with a muffler which is in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, by-pass or similar device upon a motor vehicle on a highway. Every motorcycle muffler shall be equipped with baffle plates.
- (b) No person shall own, operate or have in the person's possession any motor vehicle or motorcycle equipped with a device for producing excessive smoke or gas, or so equipped as to permit oil or any other chemical to flow into or upon the exhaust pipe or muffler of such vehicle, or equipped in any other way to produce or emit smoke or dangerous or annoying gases from any portion of such vehicle, other than the ordinary gases emitted by the exhaust of an internal combustion engine under normal operation.
 - (c) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.22)

337.21 REAR-VIEW MIRROR; CLEAR VIEW TO FRONT, BOTH SIDES AND REAR.

- (a) Every motor vehicle and motorcycle shall be equipped with a mirror so located as to reflect to the operator a view of the street to the rear of such vehicle or motorcycle. Operators of vehicles and motorcycles shall have a clear and unobstructed view to the front and to both sides of their vehicles or motorcycles and shall have a clear view to the rear of their vehicles or motorcycles by mirror.
 - (b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.23)

337.22 WINDSHIELD AND WINDSHIELD WIPER; SIGN OR POSTER THEREON.

- (a) No person shall drive any motor vehicle on a street or highway, other than a motorcycle or motorized bicycle, that is not equipped with a windshield.
 - (b) (1) No person shall drive any motor vehicle, other than a bus, with any sign, poster or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster or decal not to exceed four inches in height by six inches in width. No sign, poster or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number for the motor vehicle when in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.
 - (2) Subsection (b)(1) of this section does not apply to a person who is driving a passenger car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if the device meets both of the following:

- A. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals.
- B. It does not conceal the vehicle identification number.
- (3) Subsection (b)(1) of this section does not apply to a person who is driving a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if the device meets both of the following:
 - A. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals.
 - B. It is mounted not more than six inches below the upper edge of the windshield and is outside the area swept by the vehicle's windshield wipers.
- (c) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle.
- (d) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.24)

337.23 LIMITED LOAD EXTENSION ON LEFT SIDE OF PASSENGER VEHICLE.

- (a) No passenger-type vehicle shall be operated on a street with any load carried on such vehicle which extends more than six inches beyond the line of the fenders on the vehicle's left side. (ORC 4513.30)
- (b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.99)

337.24 MOTOR VEHICLE STOP LIGHTS.

(a) Every motor vehicle, trailer, semitrailer, and pole trailer when operated upon a street or highway shall be equipped with two or more stop lights, except that passenger cars manufactured or assembled prior to January 1, 1967, motorcycles, and motor-driven cycles shall be equipped with at least one stop light. Stop lights shall be mounted on the rear of the vehicle, actuated upon application of the service brake, and may be incorporated with other rear lights. Such stop lights when actuated shall emit a red light visible from a distance of five hundred feet to the rear, provided that in the case of a train of vehicles only the stop lights on the rear-most vehicle need be visible from the distance specified.

Such stop lights when actuated shall give a steady warning light to the rear of a vehicle or train of vehicles to indicate the intention of the operator to diminish the speed of or stop a vehicle or train of vehicles.

When stop lights are used as required by this section, they shall be constructed or installed so as to provide adequate and reliable illumination and shall conform to the appropriate rules and regulations established under Ohio R.C. 4513.19.

Historical motor vehicles as defined in Ohio R.C. 4503.181, not originally manufactured with stop lights, are not subject to this section.

(b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.071)

337.25 AIR CLEANER REQUIRED.

- (a) No person shall operate a motor vehicle with an internal combustion engine unless the carburetion system of the vehicle is protected with an air filter, a flame arresting device, or any other accepted method of protection that is adequate for this purpose. If the original device or system is replaced, it shall be replaced with one that is equal to or better than the original equipment.
- (b) This section does not apply to a person doing automotive repair work on a motor vehicle that necessitates this device being removed while the work is performed.
- (c) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

337.26 CHILD RESTRAINT SYSTEM USAGE.

- (a) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor safety standards:
 - (1) A child who is less than four years of age;
 - (2) A child who weighs less than forty pounds.
- (b) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab, that is owned, leased or otherwise under the control of a nursery school, or day-care center, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:
 - (1) A child who is less than four years of age;
 - (2) A child who weighs less than forty pounds.
- (c) When any child who is less than eight years of age and less than four feet nine inches in height, who is not required by subsection (a) or (b) of this section to be secured in a child restraint system, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01 or a vehicle that is regulated under Ohio R.C. 5104.011, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions on a booster seat that meets federal motor vehicle safety standards.
- (d) When any child who is at least eight years of age but not older that fifteen years of age and who is not otherwise required by subsection (a), (b) or (c) hereof to be secured in a child restraint system or booster seat, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device as defined in Ohio R.C. 4513.263.

- (e) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of subsection (c) or (d) of this section or causing the arrest of or commencing a prosecution of a person for a violation of subsection (c) or (d) of this section, and absent another violation of law, a law enforcement officer's view of the interior or visual inspection of a motor vehicle being operated on any street or highway may not be used for the purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed.
- (f) The Ohio Director of Public Safety shall adopt such rules as are necessary to carry out this section.
- (g) The failure of an operator of a motor vehicle to secure a child in a child restraint system, a booster seat or an occupant restraining device as required by this section is not negligence imputable to the child, is not admissible as evidence in any civil action involving the rights of the child against any other person allegedly liable for injuries to the child, is not to be used as a basis for a criminal prosecution of the operator of the motor vehicle other than a prosecution for a violation of this section, and is not admissible as evidence in any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of this section.
- (h) This section does not apply when an emergency exists that threatens the life of any person operating or occupying a motor vehicle that is being used to transport a child who otherwise would be required to be restrained under this section. This section does not apply to a person operating a motor vehicle who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or a chiropractor licensed to practice in this State under Ohio R.C. Chapter 4734 that states that the child who otherwise would be required to be restrained under this section has a physical impairment that makes use of a child restraint system, booster seat or an occupant restraining device impossible or impractical, provided that the person operating the vehicle has safely and appropriately restrained the child in accordance with any recommendations of the physician or chiropractor as noted on the affidavit.
- (i) Nothing in this section shall be construed to require any person to carry with the person the birth certificate of a child to prove the age of the child, but the production of a valid birth certificate for a child showing that the child was not of an age to which this section applies is a defense against any ticket, citation or summons issued for violating this section.
- (j) Whoever violates subsection (a), (b), (c) or (d) of this section shall be punished as follows, provided that the failure of an operator of a motor vehicle to secure more than one child in a child restraint system, booster seat, or occupant restraining device as required by this section that occurred at the same time, on the same day, and at the same location is deemed to be a single violation of this section:
 - (1) Except as otherwise provided in subsection (j)(2) of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than twenty-five dollars (\$25.00) nor more than seventy-five dollars (\$75.00).
 - (2) If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a), (b), (c) or (d) of this section or of a state law or municipal ordinance that is substantially similar to any of those subsections, the offender is guilty of a misdemeanor of the fourth degree. (ORC 4511.81)

337.27 DRIVERS AND PASSENGERS REQUIRED TO WEAR SEAT BELTS.

- (a) As used in this section:
 - (1) "Automobile" means any commercial tractor, passenger car, commercial car or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States Secretary of Transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.
 - (2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum Federal vehicle safety standards established by the United States Department of Transportation.
 - "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.
 - (4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as provided in Ohio R.C. 4501.01.
 - (5) "Vehicle" and "motor vehicle", as used in the definitions of the terms set forth in subsection (a)(4) hereof, have the same meanings as provided in Chapter 301.
 - (6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in Ohio R.C. 2307.71 and an asbestos claim, as defined in Ohio R.C. 2307.91, but does not include a civil action for damages for breach of contract or another agreement between persons.
- (b) No person shall do either of the following:
 - (1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;
 - (2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in subsection (b)(3) hereof is wearing all of the available elements of a properly adjusted occupant restraining device;
 - (3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;
 - (4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.
- (c) Subsection (b)(3) hereof does not apply to a person who is required by Section 337.26 to be secured in a child restraint device or booster seat.
 - (2) Subsection (b)(1) hereof does not apply to a person who is an employee of the United States Postal Service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees.
 - (3) Subsections (b)(1) and (3) hereof do not apply to a person who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or a chiropractor licensed to practice in this State under Ohio R.C. Chapter 4734 that states the following:

- A. That the person has a physical impairment that makes use of an occupant restraining device impossible or impractical;
- B. Whether the physical impairment is temporary, permanent or reasonably expected to be permanent;
- C. If the physical impairment is temporary, how long the physical impairment is expected to make the use of an occupant restraining device impossible or impractical.
- (4) Subsections (b)(1) and (3) of this section do not apply to a person who has registered with the Registrar of Motor Vehicles in accordance with subsection (c)(5) of this section.
- (5) A person who has received an affidavit under subsection (c)(3) of this section stating that the person has a permanent or reasonably expected to be permanent physical impairment that makes use of an occupant restraining device impossible or impracticable may register with the Registrar attesting to that fact. Upon such registration, the Registrar shall make that information available in the law enforcement automated data system. A person included in the database under subsection (c)(5) of this section is not required to have the affidavit obtained in accordance with subsection (c)(3) of this section in their possession while operating or occupying an automobile.
- (6) A physician or chiropractor who issues an affidavit for the purposes of subsection (c)(3) or (4) of this section is immune from civil liability arising from any injury or death sustained by the person who was issued the affidavit due to the failure of the person to wear an occupant restraining device unless the physician or chiropractor, in issuing the affidavit, acted in a manner that constituted willful, wanton or reckless misconduct.
- (7) The Registrar shall adopt rules in accordance with Ohio R.C. Chapter 119, establishing a process for a person to be included in the database under subsection (c)(5) of this section. The information provided and included in the database under subsection (c)(5) of this section is not a public record subject to inspection or copying under Ohio R.C. 149.43.
- (d) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of subsection (b) hereof has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.
- (e) All fines collected for violations of subsection (b) hereof shall be forwarded to the Treasurer of State for deposit as provided in Ohio R.C. 4513.263.
 - (f) Subject to subsection (f)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of subsection (b)(1) or (3) or the failure of a person to ensure that each minor who is a passenger of an automobile being operated by that person is wearing all of the available elements of a properly adjusted occupant restraining device, in violation of subsection (b)(2) of this section, shall not be considered or used by the trier of fact in a tort action as evidence of negligence or contributory negligence. But the trier of fact may determine based on evidence admitted consistent with the Ohio rules

of evidence that the failure contributed to the harm alleged in the tort action and may diminish a recovery of compensatory damages that represents noneconomic loss, as defined in Ohio R.C. 2307.011 in a tort action that could have been recovered but for the plaintiff's failure to wear all of the available elements of a properly adjusted occupant restraining device. Evidence of that failure shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in a criminal action involving the person other than a prosecution for a violation of this section.

- (2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:
 - A. It seeks to recover damages for injury or death to the occupant.
 - B. The defendant in question is the manufacturer, designer, distributor or seller of the passenger car.
 - C. The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.
- (g) (1) Whoever violates subsection (b)(1) of this section shall be fined thirty dollars (\$30.00).
 - (2) Whoever violates subsection (b)(3) of this section shall be fined twenty dollars (\$20.00).
 - (3) Except as otherwise provided in this subsection, whoever violates subsection (b)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(4) of this section, whoever violates subsection (b)(4) of this section is guilty of a misdemeanor of the third degree. (ORC 4513.263)

337.28 USE OF SUNSCREENING, NONTRANSPARENT AND REFLECTORIZED MATERIALS.

- (a) Requirements.
 - (1) No person shall operate, on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State with any sunscreening material, or other product or material which has the effect of making the windshield or windows nontransparent or would alter the windows' color, increase its reflectivity, or reduce its light transmittance, unless the product or material satisfies one of the following exceptions:
 - A. Any manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle until such standard is subsequently repealed or reduced. In "Federal Motor Vehicle Safety Standard Number 205" (FMVSS

- 205) "manufacturer" means any person engaged in the manufacturing or assembling of motor vehicles or motor vehicle equipment, including any person importing motor vehicles or motor vehicle equipment for resale. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site http://www.gpo.gov.
- B. Any sunscreening material or other product or material applied to the windshield when used in conjunction with the safety glazing materials of such window, has a light transmittance of not less than seventy per cent plus or minus three per cent and is not red or yellow in color.
- C. Any sunscreening material or other product or material applied to the side windows to the immediate right or left the driver, so long as such material, when used in conjunction with the safety glazing materials of such windows, has a light transmittance of not less than fifty per cent plus or minus three per cent and is not red or yellow in color.
- D. Any sunscreening material or other product or material applied to a window not otherwise listed in subsections (a)(1)A. to C. or E. of this section, except that outside left and right rear view mirrors are required if the sunscreening material is applied to the rear window and the sunscreening material, when used in conjunction with the safety glazing material of such window, has a light transmittance of less than fifty per cent plus or minus three per cent.
- E. Any sunscreening material or other product or material applied along the top of the windshield and that does not extend downward beyond the AS-1 line or five inches from the top of the windshield, whichever is closer to the top, is not regulated by this section.
- (2) No person shall install in any motor vehicle any glass or other material that fails to conform to the specifications of this section.
- (3) No used motor vehicle dealer or new motor vehicle dealer, as defined in Ohio R.C. 4517.01, shall sell any motor vehicle that fails to conform to the specifications of this section.
- (4) No reflectorized materials shall be permitted upon or in any front windshield, side windows, sidewings or rear window.
- (5) No person shall operate on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State that is equipped with privacy drapes, louvers, curtains or blinds unless the drapes, louvers, curtains or blinds are open and secure during vehicle operation.
- (6) All motor vehicles, beginning with the 1990 model year, must be equipped with labels identifying sunscreening material. All sunscreening material must indicate the manufacturer's name and the percentage level of light transmission of the material permanently installed between the material and the surface to which the material is applied or affixed. Such label must be legible and must be placed in the lower left-hand corner of the vehicle window when viewed from the outside. (OAC 4501-41-03)
- (b) <u>Exemptions.</u> The provisions of this section do not apply to:
 - (1) A motor vehicle registered in this State in the name of a person, or the person's parent, legal guardian or spouse who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or an affidavit signed by an optometrist licensed to practice in this State

- under Ohio R.C. Chapter 4725 that states that the person has a physical condition that makes it necessary to equip such motor vehicle with sunscreening material which would be of a light transmittance and/or luminous reflectance in violation of this section. Such affidavit shall be in the possession of the person so afflicted or the driver at all times while in the motor vehicle;
- (2) The windows to the rear of the driver in chauffeured limousines as defined herein;
- (3) The windows to the rear of the driver in those vehicles designed and used to transport corpses which include hearses and other vehicles adapted for such use; and
- (4) The manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle as provided in subsection (a) hereof. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site http://www.gpo.gov. (OAC 4501-41-05)
- (c) <u>Definitions.</u> As used in this section, certain terms are defined as follows:
 - (1) "Motor vehicle" has the same meaning as specified in Section 301.20.
 - "Sunscreening material" means products or materials, including film, glazing and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduce the effects of the sun with respect to light reflectance or transmittance.
 - "Transmittance" means the ratio of the amount of total light, expressed in percentages, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.
 - "Windshield" means the front exterior viewing device of a motor vehicle.
 - "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield or any roof-mounted viewing device.
 - "Manufacturer" unless otherwise specified in this section, means any person who engages in the manufacturing or assembling of sunscreening products or materials or any person who fabricates, laminates or tempers a safety glazing material, incorporating, during the manufacturing process, the capacity to reflect or reduce the transmission of light.
 - (7) "Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire on an hourly basis pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an arrangement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine at a fixed rate per hour or trip. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing. (OAC 4501-41-02)
- (d) <u>Penalty.</u> Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.241)

337.29 BUMPER HEIGHTS.

(a) Definitions.

- (1) "Passenger car" means any motor vehicle with motive power, designed for carrying ten persons or less, except a multipurpose passenger vehicle or motorcycle.
- "Multipurpose passenger vehicle" means a motor vehicle with motive power, except a motorcycle, designed to carry ten persons or less, that is constructed either on a truck chassis or with special features for occasional off-road operation.
- (3) "Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property and having a gross vehicle weight rating of 10,000 pounds or less.
- (4) "Manufacturer" has the same meaning as in Ohio R.C. 4501.01.
- (5) "Gross vehicle weight rating" means the manufacturer's gross vehicle weight rating established for the vehicle.
- "Body floor height" means the vertical distance between top of the frame rail and the bottom of the passenger compartment (cab) floor. In the event that the vehicle is a truck body floor height will be measured by the vertical distance between the passenger compartment (cab) floor and the floor of the truck bed.
- (7) "Bumper height" means the vertical distance between the ground and the highest point of the bottom of the bumper, measured when the vehicle is laden on a level surface with the vehicle tires inflated to the manufacturer's recommended pressure.
- (8) "Frame" means the main longitudinal structural members of the chassis of the vehicle or, for vehicles with unitized body construction, the lowest main longitudinal structural members of the body of the vehicle.
- (9) "Wheel track distance" means the distance on the ground between the center of the tire tread on one side of the vehicle, and the center of the tire tread on the opposite side. (OAC 4501-43-02)

(b) Prohibitions; Application.

- (1) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State that does not conform to the requirements of this section.
- (2) No person shall modify any motor vehicle registered in this State in such a manner as to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation, and no person shall disconnect any part of the original suspension system of the vehicle to defeat the safe operation of that system including the installation of inverted, altered or modified suspension system component parts which results in elevation of the height of the vehicle bumper or frame unit which is not in compliance with this section.
- (3) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State without a bumper on the front and rear of the vehicle if such vehicle was equipped with bumpers as standard equipment by the manufacturer.
- (4) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State if the difference in height between the body floor and the top of the frame exceeds four inches
- (5) Nothing contained in this section shall be construed to prohibit either of the following:

- A. The installation upon a passenger car, multipurpose passenger vehicle or truck registered in this State of heavy duty equipment, including shock absorbers and overload springs as long as such equipment does not cause the vehicle to be in violation of this section;
- B. The operation on a street or highway of a passenger car, multipurpose passenger vehicle or truck registered in this State with normal wear to the suspension system if the normal wear does not adversely affect the control of the vehicle.
- (6) This section does not apply to any specially designed or modified passenger car, multipurpose passenger vehicle or truck when operated off a street or highway in races and similar events.
- (7) A specially designed or modified passenger car, multipurpose passenger vehicle or truck which does not conform to this section shall not be operated on a street or highway. (OAC 4501-43-03)

(c) Specifications.

- (1) The horizontal bumper shall be at least 4.5 inches in vertical height, centered on the vehicle's centerline, and extend no less than the width of the respective wheel track distances. Bumpers shall be horizontal load bearing bumpers and attached to the vehicle frame to effectively transfer impact when engaged.
- (2) Maximum bumper heights shall be determined by the type of vehicle at time of manufacture. If other than a passenger vehicle, the maximum bumper height shall be determined by the gross vehicle weight rating (GVWR) at the time of manufacture. The height shall be measured in terms of the vertical distance between the ground and the bottom of the bumper. Maximum bumper heights are as follows:

	Front (inches)	Rear (inches)
Passenger Vehicles	22	22
All Other Vehicles:		
4,500 lbs. and under GVWR	24	26
4,501 lbs. to 7,500 lbs. GVWR	27	29
7,501 lbs. to 10,000 lbs. GVWR	28	31

- (3) If the body and/or truck bed height is altered the difference in height between the body floor and/or the truck bed floor to the top of the frame rail shall not exceed four inches.
- (4) For any vehicle with bumpers or attaching components which have been modified or altered from the original manufacturer's design in order to conform with the maximum bumper requirements of this section, the bumper height shall be measured from a level surface to the bottom of the vehicle frame rail at the most forward and rearward points of the frame rail. Frame rail height if bumper modified or altered:

	Front (inches)	Rear (inches)
Passenger Vehicles	22	22
All Other Vehicles:		
4,500 lbs. and under GVWR	24	26
4,501 lbs. to 7,500 lbs. GVWR	27	29
7,501 lbs. to 10,000 lbs. GVWR	28	31

- (5) The height restriction in this subsection (c) applies to the distance from the ground to the bottom of the frame rail under any one or more of the following conditions:
 - A. A motor vehicle is not equipped with a front and rear bumper.
 - B. The bumper height relative to the frame rails has been altered.
 - C. A supplemental bumper has been installed or an addition to the original or replacement has been made. (OAC 4501-43-04)
- (d) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.99)

337.30 DIRECTIONAL SIGNALS REQUIRED.

- (a) No person shall operate any motor vehicle manufactured or assembled on or after January 1, 1954, unless the vehicle is equipped with electrical or mechanical directional signals.
 - (2) No person shall operate any motorcycle or motor-driven cycle manufactured or assembled on or after January 1, 1968, unless the vehicle is equipped with electrical or mechanical directional signals.
- (b) "Directional signals" means an electrical or mechanical signal device capable of clearly indicating an intention to turn either to the right or to the left and which shall be visible from both the front and rear.
- (c) All mechanical signal devices shall be self-illuminating devices when in use at the times mentioned in Section 337.02.
- (d) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.261)

337.31 EXCESSIVE SOUND FROM A MOTOR VEHICLE.

- (a) No person, firm or corporation being the owner or person in possession of a motor vehicle with any radio, phonograph, television, tape player, loud speaker or any other instrument, machine or device shall cause or permit any noise to emanate from the motor vehicle in such manner and to be of such intensity and duration as to create unreasonable noise or loud sound which causes inconvenience and annoyance to persons of ordinary sensibilities.
- (b) It shall be prima facie unlawful for a person, firm or corporation being the owner or person in possession of a motor vehicle with a device described above to cause or permit any noise emanating from a motor vehicle which is plainly audible at a distance of 50 feet from the motor vehicle. The lawful use of a motor vehicle horn shall not be a violation of this section.
 - (c) This section shall not apply to any of the following circumstances:
 - (1) The sound amplifying equipment of the motor vehicle is being operated to request medical or vehicular assistance or to warn others of a hazardous road, vehicle or traffic safety condition;
 - (2) The motor vehicle is an emergency vehicle or public safety vehicle and is on an emergency run;
 - (3) The motor vehicle is owned and operated by the State or a political subdivision, or a public utility;
 - (4) The motor vehicle is participating in a parade or other activity for which the sponsors have obtained the necessary permit or authorization; or
 - (5) The sound amplifying equipment of the motor vehicle is being operated as a requirement of federal, state or local law.

- (d) Whoever violates any of the provisions of this section shall upon a first offense, be fined seventy-five dollars (\$75.00), which fine shall not be suspended, waived or otherwise reduced below that amount. In addition, the equipment or device used in the commission of a violation of subsection (a) is hereby declared to be contraband and shall be seized and disposed of in accordance with Ohio R.C. 2933.43.
 - (2) In addition to any other method of enforcement provided for in this section, a first offense may be enforced by the issuance of a citation in compliance with Rule 4.1 of the Ohio Rules of Criminal Procedure, or by the issuance of an Ohio Uniform Traffic Ticket in compliance with the "Ohio Traffic Rules" promulgated by the Ohio Supreme Court pursuant to Ohio R.C. 2935.17 and 2937.46.
 - (3) Whoever violates this section within thirty-six hours of having been charged with a first offense thereof or within thirty-six hours of having been warned by a police officer to desist from violating this section shall be guilty of a misdemeanor of the third degree.
 - (4) Each day upon which a violation of this section occurs or continues shall be a separate offense and punishable as such hereunder. (Ord. 2002-3455. Passed 11-18-02.)

CHAPTER 339 Commercial and Heavy Vehicles

339.01	Oversize or overweight	339.07	Towing requirements.
	vehicle operation on State	339.08	Loads dropping or leaking;
	routes; State permit.		removal required; tracking mud.
339.02	Use of local streets.	339.09	Shifting load; loose loads.
339.03	Maximum width, height and	339.10	Vehicles with spikes, lugs
	length.		and chains.
339.04	Route and load information.	339.11	Use of studded tires and chains.
339.05	Wheel protectors.	339.12	Transportation of radioactive
	Vehicles transporting		materials.
	explosives.	339.13	Engine and exhaust brakes.

CROSS REFERENCES

See sectional histories for similar State law
Weighing vehicle; removal of excess load - see Ohio R.C. 4513.33
Arrest notice of driver - see Ohio R.C. 5577.14
Slower moving vehicles to be driven in right-hand lane - see
TRAF. 331.01(b)

339.01 OVERSIZE OR OVERWEIGHT VEHICLE OPERATION ON STATE ROUTES; STATE PERMIT.

(a) No person shall operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in Ohio R.C. 5577.01 to 5577.09, inclusive, or otherwise not in conformity with Ohio R.C. 4513.01 to 4513.37, inclusive, upon any State route within the Municipality, except pursuant to special written permit issued by the Ohio Director of Transportation, or upon any local truck route. Each such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer.

No holder of a permit issued by the Ohio Director of Transportation shall be required to obtain any local permit or license or pay any local fee or charge for movement on any State route within the Municipality; however, it shall be unlawful to operate any such vehicle or combination of vehicles upon any roadway within the Municipality which is not a State route, except as provided in Section 339.02.

(b) Whoever violates this section by failing to comply with the weight provisions of Ohio R.C. 5577.01 to 5577.071, shall be fined eighty dollars (\$80.00) for the first 2,000 pounds, or fraction thereof, of overload; for overloads in excess of 2,000 pounds but not in excess of 5,000 pounds, such person shall be fined one hundred dollars (\$100.00), and in addition thereto one dollar (\$1.00) per 100 pounds of overload; for overloads in excess of 5,000 pounds, but not in excess of 10,000 pounds, such person shall be fined one hundred thirty dollars (\$130.00) and in addition thereto two dollars (\$2.00) per 100 pounds of overload, or imprisoned for not more than thirty days, or both. For all overloads in excess of 10,000 pounds such person shall be fined one hundred and sixty dollars (\$160.00) and in addition thereto three dollars (\$3.00) per 100 pounds of overload, or imprisoned not more than thirty days, or both. (Ord. 2006-3717. Passed 10-2-06.)

339.02 USE OF LOCAL STREETS.

- No person shall operate a commercial truck, trailer or semi-trailer, in excess of 10,000 pounds upon any street except as set forth in subsections (b) to (d) below. The weight as stated on the Ohio Bureau of Motor Vehicles registration form shall be prima facie evidence of the weight of such vehicle.
- Operators of vehicles described in subsection (a) hereof, not engaged in or enroute to pick up or discharge cargo within the City, or to obtain or perform services within the City or travel to or from a truck terminal or office within the City shall follow designated state routes or truck routes through the City.
- Operators of vehicles described in subsection (a) hereof engaged in or enroute to pick up or discharge cargo, or to obtain or perform services within the City or travel to or from a truck terminal or office within the City shall enter the City on designated state routes or truck routes designated as such by the Director of Public Services pursuant to the Codified Ordinances of the City.
- If after entering the City on a designated state or truck route, the operator of any of said vehicles is engaged in or enroute to deliver or pick up cargo or obtain or perform services within the City or travel to or from a truck terminal or office within the City, which location is off the designated state or truck route, then said operator shall be permitted to leave the designated state or truck route within the City and travel by the most direct route to said place of delivery, pickup or storage, or to obtain or perform services within the City. The operator shall thereafter return by the most direct route to a state or truck route within the City and shall use said State or truck route to leave the City.
- The Director of Public Services shall cause signs to be posted, designating the truck routes within the City and shall indicate the location of all terminals upon said routes.
- Notwithstanding any other provision of this section, the following weight limitations (f) shall apply to the use of Headley's Mill Road:
 - No person, firm or corporation shall transport over Headley's Mill Road in (1)any vehicle propelled by muscular, motor or other power, any burden, including weight of vehicle and load, greater than forty percent of any of the weight limitations set forth in Section 5577.03 of the Ohio Revised
 - (2)The maximum wheel load of any one wheel of any vehicle, trackless trolley, load, object, or structure operated or moved upon Headley's Mill Road shall not exceed forty percent of the maximum wheel load weight set forth in division (A) of Section 5577.04 of the Ohio Revised Code;
 - (3) The weight of vehicle and load imposed upon Headley's Mill Road with pneumatic tires shall not exceed forty percent of any of the weight limitations set forth in division (D) of Section 5577.04 of the Ohio Revised Code.
- Whosoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree. (Ord. 2004-3567. Passed 8-2-04.)

339.03 MAXIMUM WIDTH, HEIGHT AND LENGTH.

No vehicle shall be operated upon the public highways, streets, bridges and culverts within the Municipality, whose dimensions exceed those specified in this section.

- (b) No such vehicle shall have a width in excess of:
 - (1) 104 inches for passenger bus type vehicles operated exclusively within municipal corporations;
 - (2) 102 inches, excluding such safety devices as are required by law, for passenger bus type vehicles operated over freeways, and such other State roads with minimum pavement widths of twenty-two feet, except those roads or portions of roads over which operation of 102-inch buses is prohibited by order of the Ohio Director of Transportation;

(3) 132 inches for traction engines;

- (4) 102 inches for recreational vehicles, excluding safety devices and retracted awnings and other appurtenances of six inches or less in width and except that the Director may prohibit the operation of 102-inch recreational vehicles on designated State highways or portions of highways;
- (5) 102 inches, including load, for all other vehicles, except that the Director may prohibit the operation of 102-inch vehicles on such State highways or portions of State highways as the Director designates.
- (c) No such vehicle shall have a length in excess of:
 - (1) 66 feet for passenger bus type vehicles and articulated passenger bus type vehicles operated by a regional transit authority pursuant to Ohio R.C. 306.30 to 306.54:
 - (2) 45 feet for all other passenger bus type vehicles;
 - (3) 53 feet for any semitrailer when operated in a commercial tractor-semitrailer combination, with or without load, except that the Director may, by journal entry, prohibit the operation of any such commercial tractor-semitrailer combination on such State highways or portions of State highways as the Director designates;
 - (4) 28.5 feet for any semitrailer or trailer when operated in a commercial tractor-semitrailer-trailer or commercial tractor-semitrailer-semitrailer combination, except that the Director may prohibit the operation of any such commercial tractor-semitrailer-trailer or commercial tractor-semitrailer-semitrailer combination on such State highways or portions of State highways as the Director designates;
 - (5) A. 97 feet for drive-away saddlemount vehicle transporter combinations and drive-away saddlemount with fullmount vehicle transporter combinations when operated on any interstate, United States route, or State route, including reasonable access travel on all other roadways for a distance not to exceed one road mile from any interstate, United States route, or State route, not to exceed three saddlemounted vehicles, but which may include one fullmount;
 - B. 75 feet for drive-away saddlemount vehicle transporter combinations and drive-away saddlemount with fullmount vehicle transporter combinations, when operated on any roadway not designated as an interstate, United States route, or State route, not to exceed three saddlemounted vehicles, but which may include one fullmount;
 - (6) 65 feet for any other combination of vehicles coupled together, with or without load, except as provided in subsections (c)(3) and (4) and in subsection (e) hereof:
 - (7) 45 feet for recreational vehicles.
 - (8) 50 feet for all other vehicles except trailers and semitrailers, with or without load.

- (d) No such vehicle shall have a height in excess of thirteen feet six inches, with or without load.
- (e) An automobile transporter or boat transporter shall be allowed a length of sixty-five feet and a stinger-steered automobile transporter or stinger-steered boat transporter shall be allowed a length of seventy-five feet, except that the load thereon may extend no more than four feet beyond the rear of such vehicles and may extend no more than three feet beyond the front of such vehicles, and except further that the Director may prohibit the operation of any stinger-steered automobile transporter or stinger-steered boat transporter or a B-train assembly on any State highway or portion of any State highway that the Director designates.
- (f) The widths prescribed in subsection (b) shall not include side mirrors, turn signal lamps, marker lamps, handholds for cab entry and egress, flexible fender extensions, mud flaps, splash and spray suppressant devices, and load-induced tire bulge.

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

The lengths prescribed in subsections (c)(2) to (8) hereof shall not include safety devices, bumpers attached to the front or rear of such bus or combination, nonproperty carrying devices or components that do not extend more than twenty-four inches beyond the rear of the vehicle and are needed for loading or unloading, B-train assembly used between the first and second semitrailer of a commercial tractor-semitrailer-semitrailer combination, energy conservation devices as provided in any regulations adopted by the Secretary of the United States Department of Transportation, or any noncargo-carrying refrigeration equipment attached to the front of trailers and semitrailers. In special cases, vehicles whose dimensions exceed those prescribed by this section may operate in accordance with rules adopted by the Ohio Director of Transportation.

(g) This section does not apply to fire engines, fire trucks or other vehicles or apparatus belonging to any municipal corporation or to the volunteer fire department of any municipal corporation or used by such department in the discharge of its functions. This section does not apply to vehicles and pole trailers used in the transportation of wooden and metal poles, nor to the transportation of pipes or well-drilling equipment, nor to farm machinery and equipment. The owner or operator of any vehicle, machinery or equipment not specifically enumerated in this section but the dimensions of which exceed the dimensions provided by this section, when operating the same on the highways and streets of this State shall comply with the rules of the Director governing such movement, that the Director may adopt. Ohio R.C. 119.01 to 119.13 apply to any rules the Director adopts under this section, or the amendment or rescission of the rules, and any person adversely affected shall have the same right of appeal as provided in those sections.

This section does not require the State, the Municipality, County, township or any railroad or other private corporation to provide sufficient vertical clearance to permit the operation of such vehicle, or to make any changes in or about existing structures now crossing streets, roads and other public thoroughfares in the Municipality.

- (h) As used in this section, "recreational vehicle" has the same meaning as in Ohio R.C. 4501.01. (ORC 5577.05)
- (i) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense or subsequent offense, the person is guilty of a misdemeanor of the fourth degree. (ORC 5577.99)

339.04 ROUTE AND LOAD INFORMATION.

Drivers of vehicles described in this chapter shall be required, upon request by a police officer, to give full and true information as to the route they are following and the name of the consignor and consignee and place of delivery or removal and the location of any consignment being hauled or goods being removed, and upon a designation by such police officer of a route to be followed, shall immediately adopt and pursue such route.

339.05 WHEEL PROTECTORS.

- (a) No person shall drive or operate, or cause to be driven or operated, any commercial car, trailer or semitrailer, used for the transportation of goods or property, the gross weight of which, with load, exceeds three tons, upon the streets, bridges and culverts within this Municipality unless such vehicle is equipped with suitable metal protectors or substantial flexible flaps on the rearmost wheels of such vehicle or combination of vehicles to prevent, as far as practicable, the wheels from throwing dirt, water or other materials on the windshields of following vehicles. Such protectors or flaps shall have a ground clearance of not more than one-third of the distance from the center of the rearmost axle to the center of the flaps under any conditions of loading of the vehicle, and they shall be at least as wide as the tires they are protecting. If the vehicle is so designed and constructed that such requirements are accomplished by means of fenders, body construction or other means of enclosure, then no such protectors or flaps are required. Rear wheels not covered at the top by fenders, bodies or other parts of the vehicle shall be covered at the top by protective means extending at least to the center line of the rearmost axle. (ORC 5577.11)
 - (b) Whoever violates this section is guilty of a minor misdemeanor.

339.06 VEHICLES TRANSPORTING EXPLOSIVES.

- (a) Any person operating any vehicle transporting explosives upon a street or highway shall at all times comply with the following requirements:
 - (1) Such vehicle shall be marked or placarded on each side and on the rear with the word "EXPLOSIVES" in letters not less than eight inches high, or there shall be displayed on the rear of such vehicle a red flag not less than twenty-four inches square marked with the word "DANGER" in white letters six inches high, or shall be marked or placarded in accordance with Section 177.823 of the United States Department of Transportation Regulations.
 - Such vehicle shall be equipped with not less than two fire extinguishers, filled and ready for immediate use, and placed at convenient points on such vehicle. (ORC 4513.29)
- (b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.99)

339.07 TOWING REQUIREMENTS.

- (a) When one vehicle is towing another vehicle, the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby, and such drawbar or other connection shall not exceed fifteen feet from one vehicle to the other, except the connection between any two vehicles transporting poles, pipe, machinery or other objects of structural nature which cannot readily be dismembered.
- (b) When one vehicle is towing another and the connection consists only of a chain, rope or cable, there shall be displayed upon such connection a white flag or cloth not less than twelve inches square.
- (c) In addition to such drawbar or other connection, each trailer and each semitrailer which is not connected to a commercial tractor by means of a fifth wheel shall be coupled with stay chains or cables to the vehicle by which it is being drawn. The chains or cables shall be of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle in case the drawbar or other connection should break or become disengaged. In case of a loaded pole trailer, the connecting pole to the drawing vehicle shall be coupled to the drawing vehicle with stay chains or cables of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle.
- (d) Every trailer or semitrailer, except pole and cable trailers and pole and cable dollies operated by a public utility, as defined in Ohio R.C. 5727.01, shall be equipped with a coupling device which shall be so designed and constructed that the trailer will follow substantially in the path of the vehicle drawing it, without whipping or swerving from side to side. Vehicles used to transport agricultural produce or agricultural production materials between a local place of storage and supply and the farm, when drawn or towed on a street or highway at a speed of twenty-five miles per hour or less, and vehicles designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less shall have a drawbar or other connection, including the hitch mounted on the towing vehicle, which shall be of sufficient strength to pull all the weight towed thereby. Only one such vehicle used to transport agricultural produce or agricultural production materials as provided in this section may be towed or drawn at one time, except as follows:
 - (1) An agricultural tractor may tow or draw more than one such vehicle;
 - (2) A pickup truck or straight truck designed by the manufacturer to carry a load of not less than one-half ton and not more than two tons may tow or draw not more than two such vehicles that are being used to transport agricultural produce from the farm to a local place of storage. No vehicle being so towed by such a pickup truck or straight truck shall be considered to be a motor vehicle. (ORC 4513.32)
- (e) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.99)

339.08 LOADS DROPPING OR LEAKING; REMOVAL REQUIRED; TRACKING MUD.

- (a) No vehicle shall be driven or moved on any street, highway or other public place unless such vehicle is so constructed, loaded or covered as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that sand or other substances may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway.
- (b) Except for a farm vehicle used to transport agricultural produce or agricultural production materials or a rubbish vehicle in the process of acquiring its load, no vehicle loaded with garbage, swill, cans, bottles, waste paper, ashes, refuse, trash, rubbish, waste, wire, paper, cartons, boxes, glass, solid waste or any other material of an unsanitary nature that is susceptible to blowing or bouncing from a moving vehicle shall be driven or moved on any street, highway or other public place unless the load is covered with a sufficient cover to prevent the load or any part of the load from spilling onto the street, highway or other public place. (ORC 4513.31)
- (c) No person shall operate any vehicle so as to track or drop mud, stones, gravel or other similar material on any street, highway or other public place.
- (d) It shall be the duty of the driver of a vehicle who unlawfully drops or deposits mud, stones, gravel or other similar material or permits the load or any portion thereof to be dropped or deposited upon any street, highway or other public place to immediately remove the same or cause it to be removed. (ORC 4513.31)
- (e) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.99)

339.09 SHIFTING LOAD; LOOSE LOADS.

- (a) In addition to any other lawful requirements of load distribution, no person shall operate any vehicle upon a street or highway unless such vehicle is so laden as to prevent its contents from shifting or otherwise unbalancing the vehicle to such an extent as to interfere with the safe operation of the same.
- (b) No motor vehicle or trailer shall be driven unless the tailboard or tailgate, tarpaulins, chains (except ground or contact chains), ropes, stakes, poles, and the like, or any part of the load, are securely fastened to prevent dangling, flapping, swinging or falling from the side, end or top of the load or body. All projecting cargo shall be properly guarded by a red flag or cloth or a red light or lantern as required by Section 337.08.
- (c) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

339.10 VEHICLES WITH SPIKES, LUGS AND CHAINS.

- (a) No person shall drive over the improved streets of this Municipality a traction engine or tractor with tires or wheels equipped with ice picks, spuds, spikes, chains or other projections of any kind extending beyond the cleats, or no person shall tow or in any way pull another vehicle over the improved streets of this Municipality, which towed or pulled vehicle has tires or wheels equipped with ice picks, spuds, spikes, chains or other projections of any kind. "Traction engine" or "tractor," as used in this section, applies to all self-propelling engines equipped with metal-tired wheels operated or propelled by any form of engine, motor or mechanical power. (ORC 5589.08)
 - (b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 5589.99)

339.11 USE OF STUDDED TIRES AND CHAINS.

- (a) For purposes of this section, "studded tire" means any tire designed for use on a vehicle, and equipped with metal studs or studs of wear-resisting material that project beyond the tread of the traction surface of the tire. "Motor vehicle," "street or highway," "public safety vehicle" and "school bus" have the same meanings as given those terms in Chapter 301.
 - (b) (1) Except as provided in subsection (b)(2) hereof, no person shall operate any motor vehicle, other than a public safety vehicle or bus, that is equipped with studded tires on any street or highway, except during the period extending from November 1 of each year through April 15 of the succeeding year.
 - (2) A person may operate a motor vehicle that is equipped with retractable studded tires with the studs retracted at any time of the year, but shall operate the motor vehicle with the studs extended only as provided in subsection (b)(1) hereof.
- (c) This section does not apply to the use of tire chains when there is snow or ice on the streets or highways where such chains are being used, or the immediate vicinity thereof. (ORC 5589.081)
 - (d) Whoever violates this section is guilty of a minor misdemeanor. (ORC 5589.99)

339.12 TRANSPORTATION OF RADIOACTIVE MATERIALS.

- (a) Purpose and Definitions.
 - (1) The purpose of this section is to provide minimum standards and regulations insuring the safe shipment and transportation of radioactive materials through the City.
 - (2) As used in this section:
 - A. "Radioactive material" means any material or combination of materials, which spontaneously emits ionizing radiation. Materials in which the estimated specific activity is not greater than 0.002 microcuries per gram of material, and in which the radioactivity is essentially uniformly distributed, are not considered to be radioactive materials.
 - B. "Large quantity radioactive materials" means a quantity the aggregate radioactivity of which exceeds that specified in 10 Code of Federal Regulations (C.F.R.), Part 71 entitled "Packaging of Radioactive Material for Transport", Section 71.4(f).
 - C. "Millicurie" means one thousandth of a curie.
 - D. "Motor vehicle" means any vehicle defined as a motor vehicle in the Traffic Code of the Codified Ordinances of the City.

- E. "Railroad" means any carrier defined in the Traffic Code of the Codified Ordinances of the City.
- F. "Person" means any individual, partnership, or corporation engaged in the transportation of passengers or property, as common, contract, or private carrier, or freight forwarder, as those terms are used in the Interstate Commerce Act, as amended.

(b) Permit Required.

- (1) A permit issued by the City Administrator or a designated representative, shall be required for the shipping or transportation of the following radioactive materials by motor vehicle or railroad into, within, through or out of the City.
 - A. Plutonium isotopes in any quantity and form exceeding two grams or twenty curies, whichever is less;
 - B. Uranium enriched in the isotope U-235 exceeding twenty-five atomic percent of the total uranium content in quantities where the U-235 content exceeds one kilogram;
 - C. Any elements with atomic number eighty-nine or greater, the activity of which exceeds twenty curies;
 - D. Spent reactor fuel elements or mixed fission products associated with such fuel elements the activity of which exceeds twenty curies;
 - E. Large quantity radioactive materials;
 - F. Any quantity, arrangement and packaging combination of fissile material specified by the United States Nuclear Regulatory Commission as a "Fissile Class III" shipment in 10CFR Part 71 entitled "Packaging of Radioactive Materials for Transport", Section 71.4(d)(3); or
 - G. Any shipment or transportation of radioactive materials that is required by the appropriate regulating agency to be accompanied by an escort for safety reasons.
- (2) This section shall not apply to radioactive materials shipped or transported by or for the United States Government for military or security purposes or which are related to national defense.
- (c) Notice. When those radioactive materials requiring a permit as specified in this section are to be shipped or transported into, within, through or out of the City, the shipper or carrier, or person otherwise responsible, shall first notify the City Administrator or a designated representative, in a form provided, two weeks prior to the date of shipment. The form shall include the date of shipment, type and quantity of radioactive materials involved, method of transportation, route, starting point, destination and other such information as the City Administrator or a designated representative may reasonably require. Any information which cannot be supplied two weeks prior to shipment or transportation, shall be supplied promptly by the person responsible for such shipment or transportation when such information becomes available to him. Nothing herein shall be construed as requiring the disclosure of any defense information or restricted data as defined in the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974, as amended.

(d) <u>Issuance of Permit.</u>

- (1) The City Administrator or a designated representative, shall not issue a permit to any person for the shipment or transportation of those radioactive materials specified in this section, unless all Federal Laws and/or State Laws and State Regulations and those of Nuclear Regulatory Commission are adhered to.
- (2) Radioactive materials which are permitted to be shipped or transferred through the City pursuant to this section shall be shipped or transported through the City over such route or routes, or at such time or times of the day, consistent with the public health, safety, and welfare and the convenience of the shipper or carrier, as the City Administrator or a designated representative may direct.

 (Ord. 79-893. Passed 8-6-79.)
- (e) <u>Penalty.</u> Whoever violates this section is guilty of a misdemeanor of the first degree.

339.13 ENGINE AND EXHAUST BRAKES.

- (a) No driver of a motor vehicle that is equipped with an engine or exhaust brake, or other device that uses engine compression to help slow the vehicle, shall use such engine or exhaust brake or other device anywhere within the corporation limits. It is an affirmative defense to a charge under this section that the driver was in an emergency situation and the use of such brake or device was necessary to avoid a collision or to keep the vehicle under control. (Ord. 2003-3475. Passed 4-21-03.)
- (b) Whoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

CHAPTER 341 Commercial Drivers

341.01 Definitions.
341.02 Exemptions.
341.03 Prerequisites to operation of a commercial motor vehicle.
341.04 Prohibitions.
341.05 Criminal offenses.
341.06 Employment of drivers of commercial vehicles.

CROSS REFERENCES

See sectional histories for similar State law Disqualification - see Ohio R.C. 4506.16 Suspension or revocation of license - see Ohio R.C. 4507.16 Warning devices when disabled on freeways - see Ohio R.C. 4513.28 Arrest notice of driver - see Ohio R.C. 5577.14 Load limits - see TRAF. Ch. 339

341.01 DEFINITIONS.

As used in this chapter:

- (a) "Alcohol concentration" means the concentration of alcohol in a person's blood, breath or urine. When expressed as a percentage, it means grams of alcohol per the following:
 - (1) One hundred milliliters of whole blood, blood serum, or blood plasma;
 - (2) Two hundred ten liters of breath;
 - (3) One hundred milliliters of urine.
- (b) "Commercial driver's license" means a license issued in accordance with Ohio R.C. Chapter 4506 that authorizes an individual to drive a commercial motor vehicle.
- (c) "Commercial motor vehicle" means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:
 - (1) Any combination of vehicles with a gross vehicle weight or combined gross vehicle weight rating of 26,001 pounds or more, provided the gross vehicle weight or gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;
 - (2) Any single vehicle with a gross vehicle weight or gross vehicle weight rating of 26,001 pounds or more;
 - Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport sixteen or more passengers including the driver;

- (4) Any school bus with a gross vehicle weight or gross vehicle weight rating of less than 26,001 pounds that is designed to transport fewer than sixteen passengers including the driver;
- (5) Is transporting hazardous materials for which placarding is required under subpart F of 49 C.F.R. part 172, as amended;
- (6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the Federal Motor Carrier Safety Administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.
- (d) "Controlled substance" means all of the following:
 - (1) Any substance classified as a controlled substance under the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 U.S.C.A. 802(6), as amended;
 - (2) Any substance included in schedules I through V of 21 C.F.R. part 1308, as amended;
 - (3) Any drug of abuse.
- (e) "Disqualification" means any of the following:
 - (1) The suspension, revocation, or cancellation of a person's privileges to operate a commercial motor vehicle;
 - Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;
 - A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. 391.
- (f) "Drive" means to drive, operate or be in physical control of a motor vehicle.
- (g) "Driver" means any person who drives, operates or is in physical control of a commercial motor vehicle or is required to have a commercial driver's license.
- (h) "Driver's license" means a license issued by the Ohio Bureau of Motor Vehicles that authorizes an individual to drive.
- (i) "Drug of abuse" means any controlled substance, dangerous drug as defined in Ohio R.C. 4729.01 or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.
- (j) "Employer" means any person, including the Federal Government, any state and a political subdivision of any state, that owns or leases a commercial motor vehicle or assigns a person to drive such a motor vehicle.
- (k) "Endorsement" means an authorization on a person's commercial driver's license that is required to permit the person to operate a specified type of commercial motor vehicle.
- (1) "Farm truck" means a truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than one hundred fifty miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than one hundred fifty miles, of supplies for the farm, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock and poultry production, and livestock, poultry and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this subsection and is not used in the operations of a motor carrier, as defined in Ohio R.C. 4923.01.

- (m) "Fatality" means the death of a person as the result of a motor vehicle accident occurring not more than three hundred sixty-five days prior to the date of a death.
- (n) "Felony" means any offense under federal or state law that is punishable by death or specifically classified as a felony under the law of this State, regardless of the penalty that may be imposed.

(o) "Foreign jurisdiction" means any jurisdiction other than a state.

- (p) "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The gross vehicle weight rating of a combination vehicle is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of each towed unit.
- (q) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73, as amended.
- (r) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except that such term does not include a vehicle, machine, tractor, trailer or semitrailer operated exclusively on a rail.
- (s) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, local, Canadian or Mexican jurisdiction declaring that a driver, commercial motor vehicle or commercial motor carrier operation is out of service as defined in 49 C.F.R. 390.5.
- (t) "Public safety vehicle" has the same meaning as in divisions (E)(1) and (3) of Ohio R.C. 4511.01.
- (u) "Recreational vehicle" includes every vehicle that is defined as a recreational vehicle in Ohio R.C. 4501.01 and is used exclusively for purposes other than engaging in business for profit.

(v) "School bus" has the same meaning as in Ohio R.C. 4511.01.

- (w) "State" means a state of the United States and includes the District of Columbia.
- "Tester" means a person or entity acting pursuant to a valid agreement entered into pursuant to Ohio R.C. 4506.09.
- (y) "United States" means the fifty states and the District of Columbia.
- "Vehicle" has the same meaning as in Ohio R.C. 4511.01. (ORC 4506.01)

341.02 EXEMPTIONS.

Section 341.02 has been deleted from the Codified Ordinances. Former Ohio R.C. 4506.02 from which Section 341.02 was derived was repealed by Am. Sub. H.B. No. 68, effective June 29, 2005. The exemptions are now contained in Section 341.03.

341.03 PREREQUISITES TO OPERATION OF A COMMERCIAL MOTOR VEHICLE.

- (a) Except as provided in subsections (b) and (c) of this section, the following shall apply:
 - (1) No person shall drive a commercial motor vehicle on a highway in this Municipality unless the person holds, and has in the person's possession, any of the following:
 - A. A valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the Registrar of Motor Vehicles, or by another jurisdiction recognized by this State;
 - B. A valid examiner's commercial driving permit issued under Ohio R.C. 4506.13;

- C. A valid restricted commercial driver's license and waiver for farm-related service industries issued under Ohio R.C. 4506.24;
- D. A valid commercial driver's license temporary instruction permit issued by the Registrar, provided that the person is accompanied by an authorized state driver's license examiner or tester or a person who has been issued and has in the person's immediate possession a current, valid commercial driver's license and who meets the requirements of Ohio R.C. 4506.06(B).
- (2) No person who has been a resident of this State for thirty days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.
- (b) Nothing in subsection (a) of this section applies to any qualified person when engaged in the operation of any of the following:
 - (1) A farm truck;
 - (2) Fire equipment for a fire department, volunteer or nonvolunteer fire company, fire district, joint fire district or the Ohio Fire Marshal;
 - (3) A public safety vehicle used to provide transportation or emergency medical service for ill or injured persons;
 - (4) A recreational vehicle;
 - (5) A commercial motor vehicle within the boundaries of an eligible unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, but only if either the employee who holds a commercial driver's license issued under Ohio R.C. Chapter 4506 and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance;
 - (6) A vehicle operated for military purposes by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio national guard. This exception does not apply to United States reserved technicians.
 - (7) A commercial motor vehicle that is operated for nonbusiness purposes. "Operated for nonbusiness purposes" means that the commercial motor vehicle is not used in commerce as "commerce" is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the Public Utilities Commission pursuant to Ohio R.C. Chapter 4905, 4921, or 4923.
 - (8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise.
 - (9) A police SWAT team vehicle.
 - (10) A police vehicle used to transport prisoners.
- (c) Nothing contained in subsection (b)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this State concerning the safe operation of commercial motor vehicles.
- (d) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 4506.03)

341.04 PROHIBITIONS.

- (a) No person shall do any of the following:
 - Orive a commercial motor vehicle while having in the person's possession or otherwise under the person's control more than one valid driver's license issued by this State, any other state or by a foreign jurisdiction;
 - Drive a commercial motor vehicle on a highway in this Municipality in violation of an out-of-service order, while the person's driving privilege is suspended, revoked or canceled, or while the person is subject to disqualification;
 - (3) Drive a motor vehicle on a highway in this Municipality under authority of a commercial driver's license issued by another state or a foreign jurisdiction, after having been a resident of this State for thirty days or longer.
- (b) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 4506.04)

341.05 CRIMINAL OFFENSES.

- (a) No person who holds a commercial driver's license, or commercial driver's license temporary instruction permit or who operates a motor vehicle for which a commercial driver's license or permit is required shall do any of the following:
 - (1) Drive a commercial motor vehicle while having a measureable or detectable amount of alcohol or of a controlled substance in the person's blood, breath or urine;
 - (2) Drive a commercial motor vehicle while having an alcohol concentration of four-hundredths of one per cent or more by whole blood or breath;
 - (3) Drive a commercial motor vehicle while having an alcohol concentration of forty-eight-thousandths of one per cent or more by blood serum or blood plasma;
 - (4) Drive a commercial motor vehicle while having an alcohol concentration of fifty-six-thousandths of one per cent or more by urine;
 - (5) Drive a motor vehicle while under the influence of a controlled substance;
 - OVI ordinance as defined in Ohio R.C. 4511.19 or a municipal OVI ordinance as defined in Ohio R.C. 4511.181;
 - (7) Use a motor vehicle in the commission of a felony;
 - (8) Refuse to submit to a test under Ohio R.C. 4506.17 or 4511.191;
 - Operate a commercial motor vehicle while the person's commercial driver's license or permit or other commercial driving privileges are revoked, suspended, canceled, or disqualified;
 - (10) Cause a fatality through the negligent operation of a commercial motor vehicle, including, but not limited to, the offenses of aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter;
 - (11) Fail to stop after an accident in violation of Sections 335.12 to 335.14;
 - (12) Drive a commercial motor vehicle in violation of any provision of Ohio R.C. 4511.61 to 4511.63 or any federal or local law or ordinance pertaining to railroad-highway grade crossings;
 - (13) Use a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance as defined in Ohio R.C. 3719.01 or the possession with intent to manufacture, distribute, or dispose a controlled substance.
- (b) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 4506.15)

341.06 EMPLOYMENT OF DRIVERS OF COMMERCIAL VEHICLES.

- (a) Each employer shall require every applicant for employment as a driver of a commercial motor vehicle to provide the applicant's employment history for the ten years preceding the date the employment application is submitted to the prospective employer. The following information shall be submitted:
 - (1) A list of the names and addresses of the applicant's previous employers for which the applicant was the operator of a commercial motor vehicle;
 - (2) The dates the applicant was employed by these employers;
 - (3) The reason for leaving each of these employers.
- (b) No employer shall knowingly permit or authorize any driver employed by the employer to drive a commercial motor vehicle during any period in which any of the following apply:
 - (1) The driver's commercial driver's license is suspended, revoked or canceled by any state or a foreign jurisdiction;
 - (2) The driver has lost the privilege to drive, or currently is disqualified from driving, a commercial motor vehicle in any state or foreign jurisdiction;
 - (3) The driver, the commercial motor vehicle the driver is driving, or the motor carrier operation is subject to an out-of-service order in any state or foreign jurisdiction;
 - (4) The driver has more than one driver's license.
- (c) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of Section 341.05.
- (d) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle if the driver does not hold a valid, current commercial driver's license or commercial driver's license temporary instruction permit bearing the proper class or endorsements for the vehicle. No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of the restrictions on the driver's commercial driver's license or commercial driver's license temporary instruction permit.
 - (e) (1) Whoever violates subsection (a), (b) or (d) of this section is guilty of a misdemeanor of the first degree.
 - (2) Whoever violates subsection (c) of this section may be assessed a fine not to exceed ten thousand dollars. (ORC 4506.20)

TITLE SEVEN - Parking

Chap. 351. Parking Generally.

CHAPTER 351 Parking Generally

351.01	Police may remove unattended vehicle which obstructs traffic.	351.07	Unattended vehicle: duty to stop engine, remove key, set brake and turn
351.02	Registered owner prima-		wheels.
	facie liable for unlawful	351.08	
	parking.		traffic side.
351.03	Prohibited standing or	351.09	Truck loading zones.
	parking places.	351.10	Bus stops and taxicab stands.
351.04		351.11	
	capped locations on		narrow streets; exceptions.
	public and private lots	351.12	Prohibition against
	and garages.		parking on streets or highways.
351.05	Manner of angle parking.	351.13	Parking on posted private
351.06			property.
	repairing vehicle upon roadway.	351.14	
	i ouditay .		buses, trailers and other
			recreational vehicles.
		251 15	
		331.13	Snow emergency parking.

CROSS REFERENCES

See sectional histories for similar State law
Owner nonliability, lease defense - see Ohio R.C. 4511.071
Police may remove ignition key from unattended vehicle - see TRAF. 303.03
Parking near stopped fire apparatus - see TRAF. 331.27
Lights on parked or stopped vehicles - see TRAF. 337.09

351.01 POLICE MAY REMOVE UNATTENDED VEHICLE WHICH OBSTRUCTS TRAFFIC.

Whenever any police officer finds a vehicle unattended upon any street, bridge or causeway, or in any tunnel, where such vehicle constitutes an obstruction to traffic, such officer may provide for the removal of such vehicle to the nearest garage or other place of safety. (ORC 4511.67)

351.02 REGISTERED OWNER PRIMA-FACIE LIABLE FOR UNLAWFUL PARKING.

In any hearing on a charge of illegally parking a motor vehicle, testimony that a vehicle bearing a certain license plate was found unlawfully parked as prohibited by the provisions of this Traffic Code, and further testimony that the record of the Ohio Registrar of Motor Vehicles shows that the license plate was issued to the defendant, shall be prima-facie evidence that the vehicle which was unlawfully parked, was so parked by the defendant. A certified registration copy, showing such fact, from the Registrar shall be proof of such ownership.

351.03 PROHIBITED STANDING OR PARKING PLACES.

- (a) No person shall stand or park a vehicle, except when necessary to avoid conflict with other traffic or to comply with the provisions of this Traffic Code, or while obeying the directions of a police officer or a traffic control device, in any of the following places:
 - (1) On a sidewalk, curb or street lawn area, except a bicycle;
 - (2) In front of or less than three feet from the edge of the apron of a public or private driveway;
 - (3) Within an intersection;
 - (4) Within ten feet of a fire hydrant;
 - (5) On a crosswalk;
 - (6) Within twenty feet of a crosswalk at an intersection;
 - (7) Within thirty feet of, and upon the approach to, any flashing beacon, stop sign or traffic control device;
 - (8) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the end of a safety zone, unless a different length is indicated by a traffic control device;
 - (9) Within fifty feet of the nearest rail of a railroad crossing;
 - Within twenty feet of a driveway entrance to any fire station and, on the side of the street opposite the entrance to any fire station, within seventy-five feet of the entrance when it is properly posted with signs;
 - (11) Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic;
 - (12) Alongside any vehicle stopped or parked at the edge or curb of a street;
 - (13) Upon any bridge or other elevated structure upon a street, or within a street tunnel:
 - (14) At any place where signs prohibit stopping, standing or parking, or where the curbing or street is painted yellow, or at any place in excess of the maximum time limited by signs;
 - (15) Within one foot of another parked vehicle;
 - (16) On the roadway portion of a freeway, expressway or thruway.
 - (17) In front of or less than three feet from a mailbox.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.68; Ord. 2007-3815. Passed 10-15-07.)

351.04 PARKING NEAR CURB; HANDICAPPED LOCATIONS ON PUBLIC AND PRIVATE LOTS AND GARAGES.

- (a) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the curb side wheels of the vehicle parallel with and not more than twelve inches from the curb, unless it is impossible to approach so close to the curb; in such case the stop shall be as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise.
 - (b) (1) This subsection does not apply to streets or parts thereof where angle parking is lawfully permitted. However, no angle parking shall be permitted on a state route unless an unoccupied roadway width of not less than twenty-five feet is available for free-moving traffic.
 - (2) A. No angled parking space that is located on a state route within a municipal corporation is subject to elimination, irrespective of whether there is or is not at least twenty-five feet of unoccupied roadway width available for free-moving traffic at the location of that angled parking space, unless the municipal corporation approves of the elimination of the angled parking space.
 - B. Replacement, repainting or any other repair performed by or on behalf of the municipal corporation of the lines that indicate the angled parking space does not constitute an intent by the municipal corporation to eliminate the angled parking space.
 - (c) (1) A. Except as provided in subsection (c)(1)B. hereof, no vehicle shall be stopped or parked on a road or highway with the vehicle facing in a direction other than the direction of travel on that side of the road or highway.
 - B. The operator of a motorcycle may back the motorcycle into an angled parking space so that when the motorcycle is parked it is facing in a direction other than the direction of travel on the side of the road or highway.
 - (2) The operator of a motorcycle may back the motorcycle into a parking space that is located on the side of, and parallel to, a road or highway. The motorcycle may face any direction when so parked. Not more than two motorcycles at a time shall be parked in a parking space as described in subsection (c)(2) of this section irrespective of whether or not the space is metered.
- (d) Notwithstanding any provision of this Code or any rule, air compressors, tractors, trucks and other equipment, while being used in the construction, reconstruction, installation, repair or removal of facilities near, on, over or under a street, may stop, stand or park where necessary in order to perform such work, provided a flagperson is on duty, or warning signs or lights are displayed as may be prescribed by the Ohio Director of Transportation.
- (e) Special parking locations and privileges for persons with disabilities that limit or impair the ability to walk, also known as handicapped parking spaces or disability parking spaces shall be provided and designated by the Municipality and all agencies and instrumentalities thereof at all offices and facilities, where parking is provided, whether owned, rented or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators and ramps. All elevated signs posted in accordance with this subsection and Ohio R.C. 3781.111 (C) shall be mounted on a fixed or movable post, and the distance from the ground to the bottom edge of the sign shall measure

not less than five feet. If a new sign or a replacement sign designating a special parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the special designated parking location if the motor vehicle is not legally entitled to be parked in that location.

- (f) A. No person shall stop, stand or park any motor vehicle at special parking locations provided under subsection (e) hereof, or at special clearly marked parking locations provided in or on privately owned parking lots, parking garages, or other parking areas and designated in accordance with subsection (e) hereof, unless one of the following applies:
 - 1. The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or special license plates;
 - 2. The motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates.
 - B. Any motor vehicle that is parked in a special marked parking location in violation of subsection (f)(1)A. of this section may be towed or otherwise removed from the parking location by the Police Department. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the Municipality for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the Municipality for towing and storing motor vehicles.
 - C. If a person is charged with a violation of subsection (f)(1)A. of this section, it is an affirmative defense to the charge that the person suffered an injury not more than seventy-two hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in Ohio R.C. 4503.44(A)(1).
 - (2) No person shall stop, stand or park any motor vehicle in an area that is commonly known as an access aisle, which area is marked by diagonal stripes and is located immediately adjacent to a special parking location provided under subsection (e) of this section or at a special clearly marked parking location provided in or on a privately owned parking lot, parking garage, or other parking area and designated in accordance with that subsection.
- (g) When a motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or a temporary removable windshield placard or special license plates, or when a motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates, the motor vehicle is permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police rules provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.

- (h) As used in this section:
 - "Handicapped person" means any person who has lost the use of one or both legs, or one or both arms, who is blind, deaf or so severely handicapped as to be unable to move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary or other handicapping condition.

(2) "Person with a disability that limits or impairs the ability to walk" has the

same meaning as in Ohio R.C. 4503.44.

- "Special license plates" and "removable windshield placard" mean any license plates or removable windshield placard or temporary removable windshield placard issued under Ohio R.C. 4503.41 or 4503.44, and also mean any substantially similar license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country or sovereignty.
- (i) Whoever violates subsection (a) or (c) of this section is guilty of a minor misdemeanor.
 - (2) A. Whoever violates subsection (f)(1)A.1. or 2. of this section is guilty of a misdemeanor and shall be punished as provided in subsection (i)(2)A. and B. of this section. Except as otherwise provided in subsection (i)(2)A. of this section, an offender who violates subsection (f)(1)A.1. or 2. of this section shall be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00). An offender who violates subsection (f)(1)A.1. or 2. of this section shall be fined not more than one hundred dollars (\$100.00) if the offender, prior to sentencing, proves either of the following to the satisfaction of the court:
 - 1. At the time of the violation of subsection (f)(1)A.1. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid or special license plates that then were valid but the offender or the person neglected to display the placard or license plates as described in subsection (f)(1)A.1. of this section.
 - 2. At the time of the violation of subsection (f)(1)A.2. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a parking card that then was valid or special handicapped license plates that then were valid but the offender or the person neglected to display the card or license plates as described in subsection (f)(1)A.2. of this section.

B. In no case shall an offender who violates subsection (f)(1)A.1. or 2. of this section be sentenced to any term of imprisonment.

An arrest or conviction for a violation of subsection (f)(1)A.1. or 2. of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

Whoever violates subsection (f)(2) of this section shall be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars

(\$500.00).

In no case shall an offender who violates subsection (f)(2) of this section be sentenced to any term of imprisonment. An arrest or conviction for a violation of subsection (f)(2) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness. (ORC 4511.69)

351.05 MANNER OF ANGLE PARKING.

- (a) Upon streets where angle parking is permitted, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway as is indicated by appropriate signs or markings.
- (b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.06 SELLING, WASHING OR REPAIRING VEHICLE UPON ROADWAY.

- (a) No person shall stop, stand or park a vehicle upon any roadway for the principal purpose of:
 - (1) Displaying such vehicle for sale;
 - Washing, greasing or repairing such vehicle except repairs necessitated by an emergency.
- (b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

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

(a) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the parking brake, and, when the motor vehicle is standing upon any grade, turning the front wheels to the curb or side of the highway.

The requirements of this section relating to the stopping of the engine, locking of the ignition and removing the key from the ignition of a motor vehicle do not apply to any of the following:

- (1) A motor vehicle that is parked on residential property;
- (2) A motor vehicle that is locked, regardless of where it is parked;
- (3) An emergency vehicle;
- (4) A public safety vehicle.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.661)

351.08 OPENING VEHICLE DOOR ON TRAFFIC SIDE.

- (a) No person shall open the door of a vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.70(C), (D))

351.09 TRUCK LOADING ZONES.

- (a) No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a truck loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty minutes.
- (b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.10 BUS STOPS AND TAXICAB STANDS.

- (a) No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately posted, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone, and then only for a period not to exceed three minutes, if such stopping is not prohibited therein by posted signs.
- (b) The operator of a bus shall not stop, stand or park such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop so designated and posted as such, except in case of an emergency.
- (c) The operator of a bus shall enter a bus stop on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.
- (d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated and posted as such. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking provisions at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.
- (e) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.11 PARKING IN ALLEYS AND NARROW STREETS; EXCEPTIONS.

(a) No person shall stop, stand or park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when directed to by a police officer or traffic control signal.

Except as otherwise provided by law, no person shall stop, stand or park a vehicle within an alley except while actually loading and unloading, and then only for a period not to exceed thirty minutes.

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

351.12 PROHIBITION AGAINST PARKING ON STREETS OR HIGHWAYS.

(a) Upon any street or highway outside a business or residence district, no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main traveled part of the street or highway if it is practicable to stop, park or so leave such vehicle off the paved or main traveled part of such street or highway. In every event, a clear and unobstructed portion of the street or highway opposite such standing vehicle shall be left for the free passage of other vehicles, and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such street or highway.

This section does not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a street or highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.66)

351.13 PARKING ON POSTED PRIVATE PROPERTY.

- (a) If an owner of private property posts on the property in a conspicuous manner, prohibition against parking on the property or conditions and regulations under which parking is permitted, no person shall do either of the following:
 - (1) Park a vehicle on the property without the owner's consent;
 - Park a vehicle on the property in violation of any condition or regulation posted by the owner.
- (b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4511.681)

351.14 LIMITATIONS OF PARKING OF TRUCKS, CAMPERS, MOTOR HOMES, BOATS, BUSES, TRAILERS AND OTHER RECREATIONAL VEHICLES.

- (a) No owner or driver of a truck, campers, motor homes, boats, bus, tractor trailer, semi trailer, or house vehicle and other recreational vehicles shall park or stand such vehicle on any street for a period of longer than one hour. However, this section shall not apply to trucks or trailers used in conveying of the necessary tools and materials to premises where labor using such tools and materials is to be performed during the actual time of parking such trucks or trailers nor to motor trucks or buses conveying passengers to any public meeting, assembly, church, convention, or entertainment during the actual session of any such public meeting, assembly, church, convention, or entertainment, nor to the actual time during which a motor truck, tractor, trailer or semi trailer is being loaded or unloaded or used to deliver or hoist property or merchandise for the completion of a delivery.
- (b) Whoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree. (Ord. 2008-3853. Passed 6-2-08.)

351.15 SNOW EMERGENCY PARKING.

- (a) In order to facilitate the cleaning of certain streets and expedite the free flow of traffic, motor vehicles shall not be parked on the streets designated herein at such times as the United States Weather Bureau records indicate that two inches of snow has fallen and there is a prospect of further snowfall. All cars parked prior to the time weather conditions prohibited parking must be removed by the owners or operators. Any motor vehicle parked in violation of this prohibition shall be removed at the order of the Chief of Police and shall subject the owner or operator to the fines provided herein.
- (b) It is the responsibility of the owners or operators of motor vehicles to ascertain whether conditions require the removal of their motor vehicles from the streets designated, and to remove all cars parked in violation of this section.
- (c) When the United States Weather Bureau records indicate that two inches of snow has fallen and there is a prospect of further snowfall, the Chief of Police shall order the removal of all vehicles parked on the streets designated herein which have not been removed by the owners or operators. Such vehicles shall be removed to a motor vehicle pound as designated by the Traffic Code. Records shall be kept by the Police Department of all vehicles removed.
- (d) Whoever violates this section is subject to the same penalties provided by law for illegal parking in normally regulated streets. In addition, where a car is towed to a motor vehicle pound, the car can be recovered only upon the payment of the towing charges.
- (e) The Police Department shall use all available means to disseminate information as to the existence of weather conditions requiring removal of parked motor vehicles from the areas designated, including radio, television, newspapers and other available media to the extent feasible. The dissemination of this information does not relieve owners or operators of motor vehicles from the responsibility of ascertaining the existence of weather conditions requiring the removal of parked motor vehicles from the areas designated.

(f) The streets where parking is prohibited after two inches of snow has fallen and there is a prospect of a further snowfall are as follows: Granville Street and any other street hereinafter designated by the Chief of Police and Street Superintendent. (Ord. 92-3006. Passed 12-7-92.)

TITLE NINE - Pedestrians, Bicycles and Motorcycles

Chap. 371. Pedestrians.

Chap. 373. Bicycles and Motorcycles.

Chap. 375. Snowmobiles, Off-Highway Motorcycles, and All Purpose Vehicles.

CHAPTER 371 Pedestrians

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

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 offenses, 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 then 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 offenses, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

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

371.03 CROSSING ROADWAY OUTSIDE CROSSWALK; DIAGONAL CROSSINGS AT INTERSECTIONS.

- (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.
- (b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all traffic upon the roadway.
- (c) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.
- (d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.

- (e) This section does not relieve the operator of a vehicle from exercising due care to avoid colliding with any pedestrian upon any roadway.
- (f) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.48)

371.04 MOVING UPON RIGHT HALF OF CROSSWALK.

- (a) Pedestrians shall move, whenever practicable, upon the right half of crosswalks.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.49)

371.05 WALKING ALONG HIGHWAYS.

- (a) Where a sidewalk is provided and its use is practicable, no pedestrian shall walk along and upon an adjacent roadway.
- (b) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.
- (c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk only on the left side of the roadway.
- (d) Except as otherwise provided in Section 313.03 and 371.01, any pedestrian upon a roadway shall yield the right of way to all vehicles upon the roadway.
- (e) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.50)

371.06 USE OF HIGHWAY FOR SOLICITING; RIDING ON OUTSIDE OF VEHICLES.

(a) No person while on a roadway outside a safety zone shall solicit a ride from the driver of any vehicle.

- (b) (1) Except as provided in subsection (b)(2) hereof, no person shall stand on a highway for the purpose of soliciting employment, business or contributions from the occupant of any vehicle.
 - (2) Council, by ordinance, may authorize the issuance of a permit to a charitable organization to allow a person acting on behalf of the organization to solicit charitable contributions from the occupant of a vehicle by standing on a highway, other than a freeway, as provided in Ohio R.C. 4511.051(A), that is under the jurisdiction of the Municipality. The permit shall be valid for only one period or time, which shall be specified in the permit, in any calendar year. Council also may specify the locations where contributions may be solicited and may impose any other restrictions on or requirements regarding the manner in which the solicitations are to be conducted that Council considers advisable.
 - (3) As used herein, "charitable organization" means an organization that has received from the Internal Revenue Service a currently valid ruling or determination letter recognizing the tax-exempt status of the organization pursuant to Section 501(c)(3) of the "Internal Revenue Code."
- (c) No person shall hang onto, or ride on the outside of any motor vehicle while it is moving upon a roadway, except mechanics or test engineers making repairs or adjustments, or workers performing specialized highway or street maintenance or construction under authority of a public agency.
- (d) No operator shall knowingly permit any person to hang onto, or ride on the outside of, any motor vehicle while it is moving upon a roadway, except mechanics or test engineers making repairs or adjustments, or workers performing specialized highway or street maintenance or construction under authority of a public agency.
- (e) No driver of a truck, trailer or semitrailer shall knowingly permit any person who has not attained the age of sixteen years to ride in the unenclosed or unroofed cargo storage area of the driver's vehicle if the vehicle is traveling faster than twenty-five miles per hour, unless either of the following applies:
 - (1) The cargo storage area of the vehicle is equipped with a properly secured seat to which is attached a seat safety belt that is in compliance with federal standards for an occupant restraining device as defined in Ohio R.C. 4513.263(A)(2), the seat and seat safety belt were installed at the time the vehicle was originally assembled and the person riding in the cargo storage area is in the seat and is wearing the seat safety belt;
 - An emergency exists that threatens the life of the driver or the person being transported in the cargo storage area of the truck, trailer or semitrailer.
- (f) No driver of a truck, trailer or semitrailer shall permit any person, except for those workers performing specialized highway or street maintenance or construction under authority of a public agency to ride in the cargo storage area or on a tailgate of the driver's vehicle while the tailgate is unlatched.

- (g) (1) Except as otherwise provided in this subsection, whoever violates any provision of subsections (a) to (d) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the third degree.
 - (2) Whoever violates subsection (e) or (f) of this section is guilty of a minor misdemeanor. (ORC 4511.51)

371.07 RIGHT OF WAY ON SIDEWALK.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.441)

371.08 YIELDING TO PUBLIC SAFETY VEHICLE.

- (a) Upon the immediate approach of a public safety vehicle as stated in Section 331.21, every pedestrian shall yield the right of way to the public safety vehicle.
- (b) This section shall not relieve the driver of a public safety vehicle from the duty to exercise due care to avoid colliding with any pedestrian.
- (c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.452)

371.09 WALKING ON HIGHWAY WHILE UNDER THE INFLUENCE.

- (a) A pedestrian who is under the influence of alcohol, any drug of abuse, or any combination of them, to a degree that renders the pedestrian a hazard shall not walk or be upon a highway.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.481)

371.10 ON BRIDGES OR RAILROAD CROSSINGS.

- (a) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.
- (b) No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while the gate or barrier is closed or is being opened or closed.
- (c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.511)

371.11 PERSONS OPERATING MOTORIZED WHEELCHAIRS.

- (a) Every person operating a motorized wheelchair shall have all of the rights and duties applicable to a pedestrian that are contained in this Traffic Code, except those provisions which by their nature can have no application. (ORC 4511.491)
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.99)

371.12 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES.

- (a) (1) Electric personal assistive mobility devices may be operated on the public streets, highways, sidewalks, and paths and portions of roadways set aside for the exclusive use of bicycles in accordance with this section.
 - (2) Except as otherwise provided in this section, those sections of this Traffic Code that by their nature are applicable to an electric personal assistive mobility device apply to the device and the person operating it whenever it is operated upon any public street, highway, sidewalk, or path or upon any portion of a roadway set aside for the exclusive use of bicycles.
- (b) No operator of an electric personal assistive mobility device shall do any of the following:
 - (1) Fail to yield the right-of-way to all pedestrians and human-powered vehicles at all times;
 - (2) Fail to give an audible signal before overtaking and passing a pedestrian:
 - Operate the device at night unless the device or its operator is equipped with or wearing both of the following:
 - A. A lamp pointing to the front that emits a white light visible from a distance of not less than five hundred feet;

- B. A red reflector facing the rear that is visible from all distances from one hundred feet to six hundred feet when directly in front of lawful lower beams of head lamps on a motor vehicle.
- (4) Operate the device on any portion of a street or highway that has an established speed limit of fifty-five miles per hour or more;
- 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;
- 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.
 - 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)

CHAPTER 373 Bicycles and Motorcycles

373.01	Code application to bicycles.	373.07	Riding bicycle on right
373.02	Riding upon seats; handle		side of roadway; obedience
	bars; helmets and		to traffic rules; passing.
	glasses.	373.08	Reckless operation;
373.03	Attaching bicycle or sled		control, course and speed.
	to vehicle.		Parking of bicycle.
373.04	Riding bicycles and motor-	373.10	Motorized bicycle operation,
	cycles abreast.		equipment and license.
	Signal device on bicycle.	373.11	Paths exclusively for
373.06	Lights and reflector		bicycles.
	on bicycle; brakes.	373.12	Electric bicycles.

CROSS REFERENCES

See sectional histories for similar State law
Motorcycle protective equipment - see OAC Ch. 4501-17
Motorized bicycle equipment - see OAC Ch. 4501-23
Bicycle defined - see TRAF. 301.04
Motorcycle defined - see TRAF. 301.19
Bicycles prohibited on freeways - see TRAF. 303.06
Hand and arm signals - see TRAF. 331.15
Motorcycle operator's license required - see TRAF. 335.01(a)
Motorcycle headlight - see TRAF. 337.03
Motorcycle brakes - see TRAF. 337.18(b)

373.01 CODE APPLICATION TO BICYCLES.

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

- (c) Except as provided in subsection (d) of this section, in the case of a violation of any section of this Traffic Code described in subsection (a) of this section by a bicycle operator, electric bicycle operator, or motor vehicle operator when the trier of fact finds that the violation by the motor vehicle operator endangered the lives of bicycle riders or electric bicycle riders at the time of the violation, the court, notwithstanding any provision of this Traffic Code to the contrary, may require the bicycle operator, electric bicycle operator or motor vehicle operator to take and successfully complete a bicycling skills course approved by the court in addition to or in lieu of any penalty otherwise prescribed by the Traffic Code for that violation.
- (d) Subsections (b) and (c) of this section do not apply to violations of Section 333.01 of this Traffic Code. (ORC 4511.52)
- (e) The provisions of this Traffic Code shall apply to bicycles and electric bicycles except those which by their nature are not applicable.

373.02 RIDING UPON SEATS; HANDLEBARS; HELMETS AND GLASSES.

- (a) For purposes of this section "snowmobile" has the same meaning as given that term in Ohio R.C 4519.01.
- (b) No person operating a bicycle or electric bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, or carry any other person upon such bicycle or electric bicycle other than upon a firmly attached and regular seat thereon, and no person shall ride upon a bicycle or electric bicycle other than upon such a firmly attached and regular seat.
- (c) No person operating a motorcycle shall ride other than upon or astride the permanent and regular seat or saddle attached thereto, or carry any other person upon such motorcycle other than upon a firmly attached and regular seat or saddle thereon, and no person shall ride upon a motorcycle other than upon such a firmly attached and regular seat or saddle.
- (d) No person shall ride upon a motorcycle that is equipped with a saddle other than while sitting astride the saddle, facing forward, with one leg on each side of the motorcycle.
- (e) No person shall ride upon a motorcycle that is equipped with a seat other than while sitting upon the seat.
- (f) No person operating a bicycle or electric bicycle shall carry any package, bundle or article that prevents the driver from keeping at least one hand upon the handlebars.
- (g) No bicycle, electric bicycle, or motorcycle shall be used to carry more persons at one time than the number for which it is designed and equipped. No motorcycle shall be operated on a highway when the handlebars rise higher than the shoulders of the operator when the operator is seated in the operator's seat or saddle.

- (h) (1) Except as provided in subsection (h)(2) of this section, no person shall operate or be a passenger on a snowmobile or motorcycle without using safety glasses or other protective eye device. Except as provided in subsection (i)(3) of this section, no person who is under the age of eighteen years, or who holds a motorcycle operator's endorsement or license bearing "novice" designation that is currently in effect as provided in Ohio R.C. 4507.13, shall operate a motorcycle on a highway, or be a passenger on a motorcycle, unless wearing a United States Department of Transportationapproved protective helmet on the person's head, and no other person shall be a passenger on a motorcycle operated by such a person unless similarly wearing a protective helmet. The helmet, safety glasses or other protective eye device shall conform with rules adopted by the Ohio Director of Public Safety. The provisions of this subsection or a violation thereof shall not be used in the trial of any civil action.
 - (2) Subsection (h)(1) of this section does not apply to a person operating an autocycle or cab-enclosed motorcycle when the occupant compartment top is in place enclosing the occupants.
- (i) No person shall operate a motorcycle with a valid temporary permit and temporary instruction permit identification card issued by the Ohio Registrar of Motor Vehicles pursuant to Ohio R.C. 4507.05 unless the person, at the time of such operation, is wearing on the person's head a protective helmet that has been approved by the United States Department of Transportation that conforms with rules adopted by the Director.
 - No person shall operate a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar pursuant to Ohio R.C. 4507.05 in any of the following circumstances:
 - A. At any time when lighted lights are required by Section 337.02(a)(1);
 - B. While carrying a passenger;
 - C. On any limited access highway or heavily congested roadway.
 - (3) Subsections (i)(1) and (i)(2)A. of this section do not apply to a person who operates or is a passenger in an autocycle or cab-enclosed motorcycle when the occupant compartment top is in place enclosing the occupants.
- (j) Nothing in this section shall be construed as prohibiting the carrying of a child in a seat or trailer that is designed for carrying children and is firmly attached to the bicycle or electric bicycle.
- (k) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.53)

373.03 ATTACHING BICYCLE OR SLED TO VEHICLE.

(a) No person riding upon any motorcycle, bicycle, electric bicycle, coaster, roller skates, sled, skateboard or toy vehicle shall attach the same or self to any vehicle upon a roadway.

No operator shall knowingly permit any person riding upon any motorcycle, bicycle, electric bicycle, coaster, roller skates, sled, skateboard or toy vehicle to attach the same or self to any vehicle while it is moving upon a roadway. This section does not apply to the towing of a disabled vehicle.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.54)

373.04 RIDING BICYCLES AND MOTORCYCLES ABREAST.

- (a) Persons riding bicycles, electric bicycles, or motorcycles upon a roadway shall ride not more than two abreast in a single lane, except on paths or parts of roadways set aside for the exclusive use of bicycles, electric bicycles, or motorcycles.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

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

373.05 SIGNAL DEVICE ON BICYCLE.

- (a) A bicycle or electric bicycle may be equipped with a device capable of giving an audible signal, except that a bicycle or electric bicycle shall not be equipped with nor shall any person use upon a bicycle or electric bicycle any siren or whistle.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.56)

373.06 LIGHTS AND REFLECTOR ON BICYCLE; BRAKES.

- (a) Every bicycle or electric bicycle when in use at the times specified in Section 337.02, shall be equipped with the following:
 - (1) A lamp mounted on the front of either the bicycle or electric bicycle or the operator that shall emit a white light visible from a distance of at least five hundred feet to the front; and three hundred feet to the sides. A generator-powered lamp that emits light only when the bicycle or electric bicycle is moving may be used to meet this requirement.
 - A red reflector on the rear that shall be visible from all distances from one hundred feet to six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.

- (3) A lamp emitting either flashing or steady red light visible from a distance of five hundred feet to the rear shall be used in addition to the red reflector; If the red lamp performs as a reflector in that it is visible as specified in subsection (a)(2) of this section, the red lamp may serve as the reflector and a separate reflector is not required.
- (b) Additional lamps and reflectors may be used in addition to those required under subsection (a) of this section, except that red lamps and red reflectors shall not be used on the front of the bicycle or electric bicycle and white lamps and white reflectors shall not be used on the rear of the bicycle or electric bicycle.
- (c) Every bicycle or electric bicycle shall be equipped with an adequate brake when used on a street or highway.
- (d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.56)

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

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

- (b) This section does not require a person operating a bicycle or electric bicycle to ride at the edge of the roadway when it is unreasonable or unsafe to do so. Conditions that may require riding away from the edge of the roadway include when necessary to avoid fixed or moving objects, parked or moving vehicles, surface hazards, or if it otherwise is unsafe or impracticable to do so, including if the lane is too narrow for the bicycle or electric bicycle and an overtaking vehicle to travel safely side by side within the lane.
- (c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offenses, 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 offenses, 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) 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.
 - The offenses established under subsection (c)(1) of this section are strict liability offenses and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (ORC 4511.522)

CHAPTER 375 Snowmobiles, Off-Highway Motorcycles and All Purpose Vehicles

	Definitions. Equipment.	375.05	Licensing requirements of
	Code application; prohibited		operator. Registration of vehicles.
	operation.		Accident reports.
375.04	Permitted operation.	375.08	Certificate of title.

CROSS REFERENCES

See sectional histories for similar State law
Lights, brakes and muffler - see OAC Ch. 4501.29
Power of trial court of record to impound registration
certificate for certain violations - see Ohio R.C 4519.47
Power to regulate; municipal licensing prohibited - see
Ohio R.C. 4519.48
Street or highway defined - see TRAF. 301.42
Required usage of helmets and safety glasses - see
TRAF. 373.02(f)

375.01 DEFINITIONS.

As used in this chapter:

(a) "Snowmobile" means any self-propelled vehicle designed primarily for use on snow or ice, and steered by skis, runners or caterpillar treads. (ORC 4519.01(A))

(b) "All purpose vehicle" means any self-propelled vehicle designed primarily for cross-country travel on land and water, or on more than one type of terrain, and steered by wheels or caterpillar treads, or any combination thereof, including vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all season vehicles, mini-bikes and trail bikes, but excluding any self-propelled vehicle not principally used for purposes of personal transportation, any vehicle principally used in playing golf, any motor vehicle or aircraft required to be registered under Ohio R.C. Chapter 4503 or Chapter 4561, and any vehicle excepted from definition as a motor vehicle by Section 301.20 of this Traffic Code. (ORC 4519.01(B))

(c) "Owner" means any person, firm or corporation, other than a lienholder or dealer, having title to a snowmobile, off-highway motorcycle, or all purpose vehicle, or other right to the possession thereof. (ORC 4519.01(C))

- (d) "Operator" means any person who operates or is in actual physical control of a snowmobile, off-highway motorcycle or all purpose vehicle.
- (e) "Limited access highway" or "freeway" means a highway especially designed for through traffic and over which abutting property owners have no easement or right of access by reason of the fact that their property abuts upon such highway, and access to which may be allowed only at highway intersections designated by the Ohio Director of Transportation. (ORC 5511.02)
- (f) "Interstate highway" means any part of the interstate system of highways as defined in subsection (e), 90 Stat. 431 (1976), 23 U.S.C.A. 103, and amendments thereof.
- (g) "Off-highway motorcycle" means every motorcycle, as defined in Ohio R.C. 4511.01, that is designed to be operated primarily on lands other than a street or highway. (ORC 4519.01)

375.02 EQUIPMENT.

- (a) Equipment of snowmobiles, off-highway motorcycles, and all purpose vehicles shall include, but not necessarily be limited to requirements for the following items:
 - (1) At least one headlight having a minimum candlepower of sufficient intensity to reveal persons and objects at a distance of at least 100 feet ahead under normal atmospheric conditions during hours of darkness;
 - (2) At least one red taillight having a minimum candlepower of sufficient intensity to be plainly visible from a distance of 500 feet to the rear under normal atmospheric conditions during hours of darkness;
 - (3) Adequate brakes. Every snowmobile, while traveling on packed snow, shall be capable of carrying a driver who weighs 175 pounds or more, and, while carrying such driver, be capable of stopping in not more than forty feet from an initial steady speed of twenty miles per hour, or locking its traction belt.
 - (4) A muffler system capable of precluding the emission of excessive smoke or exhaust fumes, and of limiting the engine noise of vehicles. On snowmobiles manufactured after January 1, 1973, such requirement shall include sound dampening equipment such that noise does not exceed eighty-two decibels on the "A" scale at fifty feet as measured according to SAE J192 (September 1970).
- (b) No person shall operate any snowmobile, off-highway motorcycle, or all purpose vehicle in violation of this section, except that equipment specified in subsections (a)(1) and (2) hereof shall not be required on snowmobiles, off-highway motorcycles, or all purpose vehicles operated during the daylight hours.
- (c) Except as otherwise provided in this subsection, whoever violates subsection (b) of this section shall be fined not more than fifty dollars (\$50.00). If the offender within the preceding year previously has committed a violation of subsection (b) of this section, whoever violates subsection (b) of this section shall be fined not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100.00), imprisoned not more than three days, or both. (ORC 4519.20)

375.03 CODE APPLICATION; PROHIBITED OPERATION.

(a) The applicable provisions of this Traffic Code shall be applied to the operation of snowmobiles, off-highway motorcycles, and all purpose vehicles; except that no snowmobile, off-highway motorcycle, or all purpose vehicle shall be operated as follows:

(1) On any street or highway except for emergency travel only during such time and in such manner as the State or local authority having jurisdiction over such street or highway shall designate, and except as provided in Section 275.04:

Section 375.04;

(2) Upon any property owned or leased by the Municipality except in areas

designated for such purposes;

On any private property, or in any nursery or planting area, without the permission of the owner or other person having the right to possession of the property;

(4) On any land or waters controlled by the State, except at those locations

where a sign has been posted permitting such operation;

(5) On tracks or right of way of any operating railroad;

While transporting any firearm, bow or other implement for hunting, that is not unloaded and securely encased;

(7) For the purpose of chasing, pursuing, capturing or killing any animal or

wild fowl;

- (8) During the time from sunset to sunrise, unless displaying lighted lights as required by Section 375.02.
- (b) Whoever violates this section shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), imprisoned not less than three nor more than thirty days, or both. (ORC 4519.40)

375.04 PERMITTED OPERATION.

Snowmobiles, off-highway motorcycles, and all purpose vehicles may be operated as follows:

- (a) To make a crossing of a highway, other than a freeway or limited access highway, whenever the crossing can be made in safety and will not interfere with the movement of vehicular traffic approaching from any direction on the highway, and provided that the operator yields the right of way to any approaching traffic that presents an immediate hazard;
- (b) On highways in the County or Township road systems whenever the local authority having jurisdiction over such highway so permits;
- (c) Off and alongside a street or highway for limited distances from the point of unloading from a conveyance to the point at which the snowmobile, off-highway motorcycle, or all purpose vehicle is intended and authorized to be operated.

(d) On the berm or shoulder of a highway, other than a highway as designated in Ohio R.C. 4519.40(A), when the terrain permits such operation to be undertaken safely and without the necessity of entering any traffic lane;

(e) On the berm or shoulder of a county or township road, while traveling from one area of operation of the snowmobile, off-highway motorcycle, or all-purpose

vehicle to another such area. (ORC 4519.41)

375.05 LICENSING REQUIREMENTS OF OPERATOR.

- (a) No person who does not hold a valid, current motor vehicle driver's or commercial driver's license, motorcycle operator's endorsement or probationary license issued under Ohio R.C. Chapter 4506 or 4507, or a valid, current driver's license issued by another jurisdiction, shall operate a snowmobile, off-highway motorcycle, or all purpose vehicle on any street or highway, on any portion of the right of way thereof, or on any public land or waters. This subsection shall not be construed to permit the holder of such a license to operate a snowmobile, off-highway motorcycle, or all purpose vehicle in violation of Section 375.03.
- (b) No person who is less than sixteen years of age shall operate a snowmobile, off-highway motorcycle, or all purpose vehicle on any land or waters other than private property or waters owned by or leased to such person's parent or guardian, unless ac companied by another person who is eighteen years of age, or older, and who holds a license as provided in subsection (a) hereof, except that the Ohio Department of Natural Resources may permit such operation on State controlled land under its jurisdiction when such person is less than sixteen years of age and is accompanied by a parent or guardian who is a licensed driver eighteen years of age or older.
- (c) Whoever violates this section shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), imprisoned not less than three nor more than thirty days, or both. (ORC 4519.44)

375.06 REGISTRATION OF VEHICLES.

- (a) Except as provided in Ohio R.C 4519.02(B), (C) and (D), no person shall operate any snowmobile, off-highway motorcycle, or all purpose vehicle unless the snowmobile, off-highway motorcycle, or all purpose vehicle is registered and numbered in accordance with Ohio R.C. 4519.03 and 4519.04.
- (b) Except as otherwise provided in this subsection, whoever violates subsection (a) of this section shall be fined not more than twenty-five dollars (\$25.00). If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a) of this section, whoever violates subsection (a) of this section shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00). (ORC 4519.02)

375.07 ACCIDENT REPORTS.

(a) The operator of a snowmobile, off-highway motorcycle, or all purpose vehicle involved in any accident resulting in bodily injury to or death of any person or damage to the property of any person in excess of one hundred dollars (\$100.00) shall report the accident within forty-eight hours to the Chief of Police, and, within thirty days, shall forward a written report of the accident to the Ohio Registrar of Motor Vehicles on a form prescribed by the Registrar. If the operator is physically incapable of making the reports and there is another participant in the accident not so incapacitated, the participant shall make the reports. In the event that there is no other participant, and the operator is other than the owner, the owner, within the prescribed periods of time, shall make the reports.

Any law enforcement officer or other person authorized by Ohio R.C. 4519.42 and 4519.43, who investigates or receives information of an accident involving a snowmobile, off-highway motorcycle, or all purpose vehicle shall forward to the Registrar a written report of the accident within forty-eight hours. (ORC 4519.46)

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

375.08 CERTIFICATE OF TITLE.

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

(1) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle without having a certificate of title for the off-highway motorcycle or all-purpose vehicle, if such a certificate is required by Ohio R.C. Chapter 4519 to be issued for the off-highway motorcycle or all-purpose vehicle, or, if a physical certificate of title has not been issued for it, operate an off-highway motorcycle or all-purpose vehicle knowing that the ownership information relating to the motorcycle or vehicle has not been entered into the automated title processing system by a clerk of a court of common pleas;

(2) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle if a certificate of title to the off-highway motorcycle or all-purpose

vehicle has been issued and then has been canceled;

(3) Fail to surrender any certificate of title upon cancellation of it by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in

Ohio R.C. Chapter 4519;

(4) Fail to surrender the certificate of title to a clerk of the court of common pleas as provided in Ohio R.C. Chapter 4519, in case of the destruction or dismantling of, or change in, the off-highway motorcycle or all-purpose vehicle described in the certificate of title;

(5) Violate any provision of Ohio R.C. 4519.51 to 4519.70 or any lawful rules

adopted pursuant to those sections;

(6) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle knowing that the certificate of title to or ownership of the motorcycle or vehicle as otherwise reflected in the automated title processing system has been canceled.

(b) Whoever violates this section shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than ninety days, or both. (ORC 4519.66)

CODIFIED ORDINANCES OF PATASKALA PART FIVE - GENERAL OFFENSES CODE

- Chap. 501. General Provisions and Penalty.
- Chap. 505. Animals and Fowl.
- Chap. 506. Domesticated Farm Animals and Bees on Lots of Less Than Five Acres.
- Chap. 509. Disorderly Conduct and Peace Disturbance.
- Chap. 513. Drug Abuse Control.
- Chap. 517. Gambling.
- Chap. 519. Fire Damaged Structures: Removal or Repair Securing Funds.
- Chap. 521. Health, Safety and Sanitation.
- Chap. 525. Law Enforcement and Public Office.
- Chap. 529. Liquor Control.
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CODIFIED ORDINANCES OF PATASKALA PART FIVE - GENERAL OFFENSES CODE

CHAPTER 501 General Provisions and Penalty

501.01	Definitions.	501.08	Culpable mental states.
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	abrogated.		Organizational criminal
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CROSS REFERENCES

See sectional histories for similar State law
Limitation of prosecution for income tax violations - see
Ohio R.C. 718.06

Modification of sentence - see Ohio R.C. 2929.10(C), (D)
Penalty considerations - see Ohio R.C. 2929.22
Citation issuance for minor misdemeanors - see Ohio
R.C. 2935.26 et seq.

501.01 DEFINITIONS.

As used in the Codified Ordinances:

- (a) "Force" means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.
- (b) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.
- (c) "Physical harm to persons" means any injury, illness or other physiological impairment, regardless of its gravity or duration.
- (d) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.
- (e) "Serious physical harm to persons" means any of the following:
 - (1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
 - (2) Any physical harm that carries a substantial risk of death;
 - Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;

- (4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;
- (5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.
- (f) "Serious physical harm to property" means any physical harm to property that does either of the following:
 - (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;
 - (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and enjoyment for an extended period of time.
- (g) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (h) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
- (i) "Offense of violence" means any of the following:
 - (1) A violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 2903.34(A)(1), 2911.12(A)(1) to (3) or 2919.22(B)(1) to (4), or felonious sexual penetration in violation of former Ohio R.C. 2907.12;
 - A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section listed in subsection (i)(1) hereof;
 - (3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed, purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;
 - (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (i)(1), (2) or (3) hereof.
- (j) (1) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.
 - As used in this section, "trade secret" has the same meaning as in Ohio R.C. 1333.61, and "telecommunications service" and "information service" have the same meanings as in Ohio R.C. 2913.01.
 - (3) As used in this section, "cable television service", "computer", "computer software", "computer system", "computer network", "data", and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.

- (k) "Law enforcement officer" means any of the following:
 - (1) A sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D) or State highway patrol trooper;
 - An officer, agent or employee of the State or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, Charter or ordinance, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;
 - (3) A mayor or manager in the mayor's or manager's capacity as chief conservator of the peace within the mayor's or manager's municipal corporation;
 - (4) A member of an auxiliary police force organized by county, township or municipal law enforcement authorities, within the scope of the member's appointment or commission:
 - A person lawfully called pursuant to Ohio R.C. 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called:
 - (6) A person appointed by a mayor pursuant to Ohio R.C. 737.01 as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;
 - (7) A member of the organized militia of this State or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;
 - (8) A prosecuting attorney, assistant prosecuting attorney, secret service officer or municipal prosecutor;
 - (9) A veterans' home police officer appointed under Ohio R.C. 5907.02;
 - (10) A member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y);
 - (11) A special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28;
 - (12) The Senate Sergeant of Arms and or Assistant Sergeant at Arms;
 - A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in Section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States Department of Transportation as provided in Parts 1542 and 1544 of Title 49 of the Code of Federal Regulations, as amended.
- (l) "Privilege" means an immunity, license or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office or relationship, or growing out of necessity.
- (m) "Contraband" means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:
 - (1) Any controlled substance, as defined in Ohio R.C. 3719.01, or any device, or paraphernalia;
 - (2) Any unlawful gambling device, or paraphernalia;
 - (3) Any dangerous ordnance or obscene material.

- (n) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in Ohio R.C. 2901.05, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person's acts.
- (o) (1) A. Subject to subsection (o)(2) hereof, as used in any section contained in Part Five General Offenses Code that sets forth a criminal offense, "person" includes all of the following:
 - 1. An individual, corporation, business trust, estate, trust, partnership, and association;
 - 2. An unborn human who is viable.
 - B. As used in any section contained in Part Five General Offenses Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership and association.
 - C. As used in subsection (o)(1)A. hereof:
 - 1. "Unborn human" means an individual organism of the species Homo sapiens from fertilization until live birth.
 - 2. "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.
 - (2) Notwithstanding subsection (o)(1)A. hereof, in no case shall the portion of the definition of the term "person" that is set forth in subsection (o)(1)A.2. hereof be applied or construed in any section contained in Part Five General Offenses Code that sets forth a criminal offense in any of the following manners:
 - A. Except as otherwise provided in subsection (o)(2)A. hereof, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate Ohio R.C. 2919.12, division (B) of Ohio R.C. 2919.13, or Ohio R.C. 2919.151, 2919.17 or 2919.18, may be punished as a violation of Ohio R.C. 2919.12, division (B) of Ohio R.C. 2919.13, or Ohio R.C. 2919.151, 2919.17 or 2919.18, as applicable. Consent is sufficient under this subsection if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with Ohio R.C. 2919.12.
 - B. In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:
 - 1. Her delivery of a stillborn baby;
 - 2. Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying;

- 3. Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;
- 4. Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;
- 5. Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness or other physiological impairment, regardless of its duration or gravity, or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.
- (p) "School safety zone" consists of a school, school building, school premises, school activity, and school bus.
- (q) "School", "school building" and "school premises" have the same meaning as in Ohio R.C. 2925.01.
- (r) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Ohio R.C. Chapter 3314; a governing body of an educational service center; or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07.
- (s) "School bus" has the same meaning as in Ohio R.C. 4511.01. (ORC 2901.01)

501.02 CLASSIFICATION OF OFFENSES.

As used in the Codified Ordinances:

- (a) Offenses include misdemeanors of the first, second, third and fourth degree, minor misdemeanors and offenses not specifically classified.
- (b) Regardless of the penalty that may be imposed, any offense specifically classified as a misdemeanor is a misdemeanor.
- (c) Any offense not specifically classified is a misdemeanor if imprisonment for not more than one year may be imposed as a penalty.
- (d) Any offense not specifically classified is a minor misdemeanor if the only penalty that may be imposed is one of the following:
 - (1) For an offense committed prior to January 1, 2004, a fine not exceeding one hundred dollars (\$100.00);
 - (2) For an offense committed on or after January 1, 2004, a fine not exceeding one hundred fifty dollars (\$150.00), community service under division (D) of Ohio R.C. 2929.27, or a financial sanction other than a fine under Ohio R.C. 2929.28. (ORC 2901.02)

501.03 COMMON LAW OFFENSES ABROGATED.

- (a) No conduct constitutes a criminal offense against the Municipality unless it is defined as an offense in the Codified Ordinances or any other Municipal ordinance.
- (b) An offense is defined when one or more sections of the Codified Ordinances state a positive prohibition or enjoin a specific duty, and provide a penalty for violation of such prohibition or failure to meet such duty.
- (c) This section does not affect the power of a court to punish for contempt or to employ any sanction authorized by law to enforce an order, civil judgment or decree. (ORC 2901.03)

501.04 RULES OF CONSTRUCTION.

- (a) Except as otherwise provided in subsection (c) hereof, sections of the Codified Ordinances defining offenses or penalties shall be strictly construed against the Municipality and liberally construed in favor of the accused.
- (b) Rules of criminal procedure and sections of the Ohio Revised Code providing for criminal procedure shall be construed so as to effect the fair, impartial, speedy and sure administration of justice.
- (c) Any provision of a section of the Codified Ordinances that refers to a previous conviction of or plea of guilty to a violation of a section of the Codified Ordinances or Ohio Revised Code or of a division of a section of the Codified Ordinances or Ohio Revised Code shall be construed to also refer to a previous conviction of or plea of guilty to a substantially equivalent offense under an existing or former law of this State, another state, or the United States or under an existing or former municipal ordinance.
- (d) Any provision of the Codified Ordinances that refers to a section, or to a division of a section, of the Codified Ordinances that defines or specifies a criminal offense shall be construed to also refer to an existing or former law of this State, another state, or the United States, to an existing or former municipal ordinance, or to an existing or former division of any such existing or former law or ordinance that defines or specifies, or that defined or specified, a substantially equivalent offense. (ORC 2901.04)

501.05 CRIMINAL LAW JURISDICTION.

(a) A person is subject to misdemeanor prosecution and punishment in this Municipality if any of the following occur:

(1) The person commits an offense under the laws of this Municipality, any

element of which takes place in this Municipality.

- While in this Municipality, the person attempts to commit, or is guilty of (2)complicity in the commission of, an offense in another jurisdiction, which offense is an offense under both the laws of this Municipality or this State and the other jurisdiction, or, while in this Municipality, the person conspires to commit an offense in another jurisdiction, which offense is an offense under both the laws of this Municipality or this State and the other jurisdiction, and a substantial overt act in furtherance of the conspiracy is undertaken in this Municipality by the person or another person involved in the conspiracy, subsequent to the person's entrance into the conspiracy. In any case in which a person attempts to commit, is guilty of complicity in the commission of, or conspires to commit an offense in another jurisdiction as described in this subsection, the person is subject to criminal prosecution and punishment in this Municipality for the attempt, complicity, or conspiracy, and for any resulting offense that is committed or completed in the other jurisdiction.
- (3) While out of this Municipality, the person conspires or attempts to commit, or is guilty of complicity in the commission of, an offense in this Municipality.
- (4) While out of this Municipality, the person omits to perform a legal duty imposed by the laws of this Municipality, which omission affects a legitimate interest of the Municipality in protecting, governing or regulating any person, property, thing, transaction or activity in this Municipality.

- (5) While out of this Municipality, the person unlawfully takes or retains property and subsequently brings any of the unlawfully taken or retained property into this Municipality.
- (6) While out of this Municipality, the person unlawfully takes or entices another and subsequently brings the other person into this Municipality.
- (7) The person, by means of a computer, computer system, computer network, telecommunication, telecommunications device, telecommunications service, or information service, causes or knowingly permits any writing, data, image, or other telecommunication to be disseminated or transmitted into this Municipality in violation of the law of this Municipality.
- (b) This Municipality includes the land and water within its boundaries and the air space above such land and water, and real property outside the corporate limits, with respect to which this Municipality has either exclusive or concurrent legislative jurisdiction. Where the boundary between this Municipality and another jurisdiction is disputed, the disputed territory is conclusively presumed to be within this Municipality for purposes of this section.
- (c) When an offense is committed under the laws of this Municipality, and it appears beyond a reasonable doubt that the offense or any element of the offense took place either in this Municipality or in another jurisdiction or jurisdictions, but it cannot reasonably be determined in which it took place, the offense or element is conclusively presumed to have taken place in this Municipality for purposes of this section.
- (d) When a person is subject to criminal prosecution and punishment in this Municipality for an offense committed or completed outside of this Municipality, the person is subject to all specifications for that offense that would be applicable if the offense had been committed within this Municipality.
- (e) Any act, conduct, or element that is a basis of a person being subject under this section to criminal prosecution and punishment in this Municipality need not be committed personally by the person as long as it is committed by another person who is in complicity or conspiracy with the person.
- (f) This section shall be liberally construed, consistent with constitutional limitations, to allow this Municipality the broadest possible jurisdiction over offenses and persons committing offenses in, or affecting, this Municipality.
- (g) For purposes of subsection (a)(2) of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.
- (h) As used in this section, "computer", "computer system", "computer network", "information service", "telecommunication", "telecommunications device", "telecommunications service", "data", and "writing" have the same meaning as in Ohio R.C. 2913.01. (ORC 2901.11)

501.06 LIMITATION OF CRIMINAL PROSECUTION.

- (a) Except as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:
 - (1) For misdemeanor other than a minor misdemeanor, two years;
 - (2) For a minor misdemeanor, six months.
- (b) If the period of limitation provided in subsection (a) hereof has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of a fiduciary duty, within one year after discovery of the offense either by an aggrieved person, or by his legal representative who is not himself a party to the offense.
 - (c) (1) If the period of limitation provided in this section has expired, prosecution shall be commenced for the following offenses during the following specified periods of time:

A. For an offense involving misconduct in office by a public servant at any time while the accused remains a public servant, or within two years thereafter;

- B. For an offense by a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant, at any time while that public servant remains a public servant, or within two years thereafter.
- (2) As used in this subsection:
 - A. An "offense is directly related to the misconduct in office of a public servant" includes, but is not limited to, a violation of Ohio R.C. 101.71, 101.91, 121.61 or 2921.13, division (F) or (H) of Ohio R.C. 102.03, division (A) of Ohio R.C. 2921.02, division (A) or (B) of Ohio R.C. 2921.43, or division (F) or (G) of Ohio R.C. 3517.13, that is directly related to an offense involving misconduct in office of a public servant.
 - B. "Public servant" has the same meaning as in Section 525.01.
- (d) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first.

- (e) A prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation or other process, unless reasonable diligence is exercised to execute the same.
- (f) The period of limitation shall not run during any time when the corpus delicti remains undiscovered.
- (g) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused absented himself from this Municipality or concealed his identity or whereabouts is prima-facie evidence of his purpose to avoid prosecution.
- (h) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this State, even though the indictment, information or process that commenced the prosecution is quashed or the proceedings on the indictment, information or process are set aside or reversed on appeal.
- (i) The period of limitation for a violation of any provision of this General Offenses Code that involves a physical or mental wound, injury, disability or condition of a nature that reasonably indicates abuse or neglect of a child under eighteen years of age or of a child with a developmental disability or physical impairment under twenty-one years of age shall not begin to run until either of the following occurs:

(1) The victim of the offense reaches the age of majority.

- A public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that abuse or neglect is known, suspected, or believed to have occurred. (ORC 2901.13)
- (j) This section shall not apply to prosecutions commenced within the period of limitations set forth in Ohio R.C. 718.12(B) for violations of the Municipal income tax ordinance.

501.07 REQUIREMENTS FOR CRIMINAL LIABILITY.

(a) Except as provided in subsection (b) hereof, a person is not guilty of an offense unless both of the following apply:

(1) The person's liability is based on conduct that includes either a voluntary act, or an omission to perform an act or duty that the person is capable of performing;

The person has the requisite degree of culpability for each element as to which a culpable mental state is specified by the language defining the offense.

(b) When the language defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. The fact that one subsection of a section plainly indicates a purpose to impose strict liability for an offense defined in that subsection does not by itself plainly indicate a purpose to impose strict criminal liability for an offense defined in other subsections of the section that do not specify a degree of culpability.

- (c) When language defining an element of an offense that is related to knowledge or intent or to which mens rea could fairly be applied neither specifies culpability nor plainly indicates a purpose to impose strict liability, the element of the offense is established only if a person acts recklessly.
 - (2) Subsection (c)(1) of this section does not apply to offenses defined in the Traffic Code.
 - (3) Subsection (c)(1) of this section does not relieve the prosecution of the burden of proving the culpable mental state required by any definition incorporated into the offense.
- (d) Voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense. Voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense. Evidence that a person was voluntarily intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged.
 - (e) As used in this section:
 - (1) Possession is a voluntary act if the possessor knowingly procured or received the thing possessed, or was aware of the possessor's control of the thing possessed for a sufficient time to have ended possession.
 - (2) Reflexes, convulsions, body movements during unconsciousness or sleep, and body movements that are not otherwise a product of the actor's volition, are involuntary acts.
 - "Culpability" means purpose, knowledge, recklessness or negligence, as defined in Section 501.08.
 - (4) "Intoxication" includes, but is not limited to, intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug. (ORC 2901.21)

501.08 CULPABLE MENTAL STATES.

- (a) A person acts purposely when it is the person's specific intention to cause a certain result, or when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, it is the offender's specific intention to engage in conduct of that nature.
- (b) A person acts knowingly, regardless of purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist.

When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person subjectively believes that there is a high probability of its existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact.

- (c) A person acts recklessly when, with heedless indifference to the consequences, the person perversely disregards a substantial and unjustifiable risk that the person's conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, the person perversely disregards a substantial and unjustifiable risk that such circumstances are likely to exist.
- (d) A person acts negligently when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that the person's conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that such circumstances may exist.

(e) When the section defining an offense provides that negligence suffices to establish an element thereof, then recklessness, knowledge or purpose is also sufficient culpability for such element. When recklessness suffices to establish an element of an offense, then knowledge or purpose is also sufficient culpability for such element. When knowledge suffices to establish an element of an offense, then purpose is also sufficient culpability for such element. (ORC 2901.22)

501.09 ATTEMPT.

- (a) No person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, shall engage in conduct that, if successful, would constitute or result in the offense.
- (b) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.
- (c) No person who is convicted of committing a specific offense or of complicity in the commission of an offense, shall be convicted of an attempt to commit the same offense in violation of this section.
- (d) It is an affirmative defense to a charge under this section that the actor abandoned the actor's effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.
- (e) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense is an offense of the same degree as the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt. An attempt to commit any other misdemeanor is a misdemeanor of the next lesser degree than the misdemeanor attempted. In the case of an attempt to commit an offense other than a violation of Ohio R.C. Chapter 3734 that is not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony under the Ohio Revised Code, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. An attempt to commit a minor misdemeanor is not an offense under this section.
- (f) As used in this section, "drug abuse offense" has the same meaning as in Ohio R.C. 2925.01. (ORC 2923.02)

501.10 COMPLICITY.

- (a) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:
 - (1) Solicit or procure another to commit the offense;
 - (2) Aid or abet another in committing the offense;
 - (3) Cause an innocent or irresponsible person to commit the offense.
- (b) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.
- (c) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of Section 501.09.

(d) If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense or an offense, the court when it charges the jury, shall state substantially the following:

"The testimony of an accomplice does not become inadmissible because of his complicity, moral turpitude or self-interest, but the admitted or claimed complicity of a witness may affect his credibility and make his testimony subject to grave suspicion, and require that it be weighed with great caution.

"It is for you, as jurors, in the light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth." (e) It is an affirmative defense to a charge under this section that, prior to the commission of or attempt to commit the offense, the actor terminated his complicity, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose.

(f) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense. (ORC 2923.03)

501.11 ORGANIZATIONAL CRIMINAL LIABILITY.

- (a) An organization may be convicted of an offense under any of the following circumstances:
 - (1) The offense is a minor misdemeanor committed by an officer, agent or employee of the organization acting in its behalf and within the scope of the officer's, agent's or employee's office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.
 - (2) A purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent or employee of the organization acting in its behalf and within the scope of the officer's, agent's or employee's office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.
 - (3) The offense consists of an omission to discharge a specific duty imposed by law on the organization.
 - (4) If, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated or performed by the board of directors, trustees, partners or by a high managerial officer, agent or employee acting in behalf of the organization and within the scope of such a board's or person's office or employment.
- (b) If strict liability is imposed for the commission of an offense, a purpose to impose organizational liability shall be presumed, unless the contrary plainly appears.

- (c) In a prosecution of an organization for an offense other than one for which strict liability is imposed, it is a defense that the high managerial officer, agent or employee having supervisory responsibility over the subject matter of the offense exercised due diligence to prevent its commission. This defense is not available if it plainly appears inconsistent with the purpose of the section defining the offense.
- (d) As used in this section, "organization" means a corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated nonprofit association, estate, trust or other commercial or legal entity. "Organization" does not include an entity organized as or by a governmental agency for the execution of a governmental program. (ORC 2901.23)

501.12 PERSONAL ACCOUNTABILITY FOR ORGANIZATIONAL CONDUCT.

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

1) In the name of the organization or in its behalf, he engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is of a type for which he has direct

responsibility;

(2) He has primary responsibility to discharge a duty imposed on the organization by law, and such duty is not discharged.

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

501.99 PENALTIES FOR MISDEMEANORS.

- (a) <u>Financial Sanctions.</u> 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.

- В. 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) <u>Fines.</u> 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) <u>Jail Terms</u>.

- (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) <u>Organizations.</u> 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	Maximum
Misdemeanor	_Fine_
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).
- 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)

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CHAPTER 505 Animals and Fowl

505.01	Dogs and other animals	505.09	Barking or howling animals.
	running at large.	505.10	Animal bites; reports and
505.02	Impounding and disposition;		quarantine.
	records.	505.11	Hunting and discharge prohibited.
505.03	Annual registration of dogs;	505.12	Coloring rabbits or baby
	tags required.		poultry; sale or display
505.04	Abandoning animals.		of poultry.
505.05	Killing or injuring animals.	505.13	Dangerous wild animals
	Poisoning animals.		and restricted snakes.
505.07	Cruelty to animals generally.	505.99	Penalty.
505.071	Cruelty to companion animals.		•
505.08	Nuisance conditions		
	prohibited.		

CROSS REFERENCES

See sectional histories for similar State law Owner or keeper liable for damages - see Ohio R.C 951.10 Dog registration - see Ohio R.C. 955.01

505.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE.

- (a) No owner or keeper or harborer of any dog or other animal shall fail to keep such dog or animal under the control of the owner whether physically confined, restrained or otherwise and upon the premises of the owner, keeper, or harborer whether as a consequence of training or by leash, tether, adequate fence, supervision or secure enclosure so as to prevent escape.
- (b) No owner or keeper of any animal shall permit the animal to enter upon any property not that of its owner or keeper without the consent of the owner, lessee or other individual who has the right to control such property when it is not under the control of the owner whether physically confined, restrained or otherwise.
- (c) Whoever violates this section is guilty of permitting animals running at large, a minor misdemeanor for the first offense. Any subsequent offense within twelve months is a misdemeanor of the fourth degree. A third offense under this section within twelve months is a misdemeanor of the third degree.
- (d) If an animal running at large causes physical harm to any person or other domestic animal such that the person so harmed requires medical attention by a licensed medical provider or the domestic animal so harmed requires medical attention by a licensed veterinary medical provider a violation of this section is a misdemeanor of the first degree.

- (e) This section does not apply to police dogs or other animals that are used to assist law enforcement officials in the performance of their official duties or dogs or other animals specifically trained and certified to assist those with handicaps or disabilities.
- (f) This section shall not prohibit the use of any dog or other animal which is lawfully on authorized land for the purpose authorized while accompanied by the owner, keeper or other individual who has the custody of the dog or other animal with the consent of the owner of the land or individual with the authority to allow the use of the land for such purposes. (Ord. 2009-3928. Passed 9-21-09.)

505.02 IMPOUNDING AND DISPOSITION; RECORDS.

- (a) A police officer or animal warden may impound every animal or dog found in violation of Section 505.01. If the dog is not wearing a valid registration tag and the owner is not otherwise reasonably determined, notice shall be posted in the pound or animal shelter both describing the dog and place where seized and advising the unknown owner that unless the dog is redeemed within three days, it may thereafter be sold or destroyed according to law. If the dog is wearing a valid registration tag or the identity of the owner, keeper or harborer is otherwise reasonably determined, notice shall be given by certified mail to such owner, keeper or harborer that the dog has been impounded and unless redeemed within fourteen days of the date of notice, it may thereafter be sold or destroyed according to law. Any dog seized and impounded may be redeemed by its owner, keeper or harborer at any time prior to the applicable redemption period upon payment of all lawful costs assessed against the animal and upon providing the dog with a valid registration tag if it has none.
- (b) A record of all dogs impounded, the disposition of the same, the owner's name and address where known, and a statement of any costs assessed against the dog shall be kept by any poundkeeper.

505.03 ANNUAL REGISTRATION OF DOGS; TAGS REQUIRED.

- (a) Except for guide dogs registered under Ohio R.C. 955.011 and dogs kept by an institution or organization for teaching and research purposes under Ohio R.C. 955.16, no person shall own, keep or harbor a dog more than three months of age without annually registering such dog with the County Auditor. Failure of any dog at any time to wear a valid registration tag shall be prima-facie evidence of lack of registration and subject such dog to impounding and disposition as provided by Ohio R.C. 955.16.
- (b) Whoever violates this section is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense. (ORC 955.99(D)).

505.04 ABANDONING ANIMALS.

- (a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal. (ORC 959.01)
- (b) Whoever violates this section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense. (ORC 959.99)

505.05 KILLING OR INJURING ANIMALS.

(a) No person shall maliciously, or willfully, and without the consent of the owner, kill or injure a farm animal, dog, cat or other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity, or to trespassing animals as set forth in Ohio R.C. 959.04. (ORC 959.02)

(b) Except as otherwise provided herein, whoever violates this section is guilty of a misdemeanor of the second degree. If the value of the animal killed or the injury done amounts to three hundred dollars (\$300.00) or more, such person is guilty of a misdemeanor of the first degree. (ORC 959.99(B))

505.06 POISONING ANIMALS.

- (a) No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a farm animal, dog, cat, poultry or other domestic animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any of such animals, either upon his own lands or the lands of another. This section does not apply to trespassing animals as set forth in Ohio R.C. 959.04. (ORC 959.03)
- (b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (ORC 959.99(C))

505.07 CRUELTY TO ANIMALS GENERALLY.

(a) No person shall:

(1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;

good wholesome food and water;
2) Impound or confine an animal

(2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. This subsection (a)(2) does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, "shelter" means a man-made enclosure, windbreak, sunshade or natural windbreak or sunshade that is developed from the earth's contour, tree development or vegetation;

(3) Carry or convey an animal in a cruel or inhuman manner;

(4) Keep animals other than cattle, poultry or fowl, swine, sheep or goats in an enclosure without wholesome exercise and change of air, nor feed cows on food that produces impure or unwholesome milk;

- (5) Detain livestock in railroad cars or compartments longer than twenty-eight hours after they are so placed without supplying them with necessary food, water and attention, nor permit such livestock to be so crowded as to overlie, crush, wound or kill each other.
- (b) Upon the written request of the owner or person in custody of any particular shipment of livestock, which written request shall be separate and apart from any printed bill of lading or other railroad form, the length of time in which such livestock may be detained in any cars or compartments without food, water and attention, may be extended to thirty-six hours without penalty therefor. This section does not prevent the dehorning of cattle. (ORC 959.13)
- (c) Whoever violates this section is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this subsection, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal. (ORC 959.99(D))

505.071 CRUELTY TO COMPANION ANIMALS.

- (a) As used in this section:
 - (1) "Companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, including a pet store as defined in Ohio R.C. 956.01. "Companion animal" does not include livestock or any wild animal.
 - (2) "Cruelty", "torment" and "torture" have the same meanings as in Ohio R.C. 1717.01.
 - (3) "Residential dwelling" means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.
 - (4) "Practice of veterinary medicine" has the same meaning as in Ohio R.C. 4741.01.

(5) "Wild animal" has the same meaning as in Ohio R.C. 1531.01.

- "Federal animal welfare act" means the "Laboratory Animal Act of 1966", Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970", Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976", Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985", Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.
- (7) "Dog kennel" means an animal rescue for dogs that is registered under Ohio R.C. 956.06, a boarding kennel or a training kennel.
- (b) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.
- (c) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:
 - (1) Torture, torment or commit an act or cruelty against the companion animal;
 - (2) Deprive the companion animal of necessary sustenance, or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;
 - (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.
- (d) No owner, manager or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:
 - Torture, torment, or commit an act of cruelty against the companion animal:
 - (2) Deprive the companion animal of necessary sustenance, or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement:

- (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.
- (e) Subsections (b), (c) and (d) of this section do not apply to any of the following:
 - (1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;
 - 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;
 - One 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.
 - 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 harborer, or shall be quarantined in a pound or kennel. In all cases, such quarantine shall be under the supervision of the Health Commissioner and shall be at the expense

of the owner or harborer. Quarantine shall continue until the Health Commissioner determines that the dog or cat is not afflicted with rabies. The quarantine period hereby required shall not be less than ten days from the date on which the person was bitten. If at any time during the quarantine, the Health Commissioner requires the dog or cat to be examined for symptoms of rabies, then the examination shall be by a licensed doctor of veterinary medicine. The veterinarian shall report to the Health Commissioner the conclusions reached as a result of the examinations. The examination by a veterinarian shall be at the expense of the owner or harborer. No dog or cat shall be released from the required quarantine unless and until it has been properly vaccinated against rabies.

No person shall fail to comply with the requirements of this section or with any order of the Health Commissioner made pursuant thereto, nor fail to immediately report to the Health Commissioner any symptoms or behavior suggestive of rabies.

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

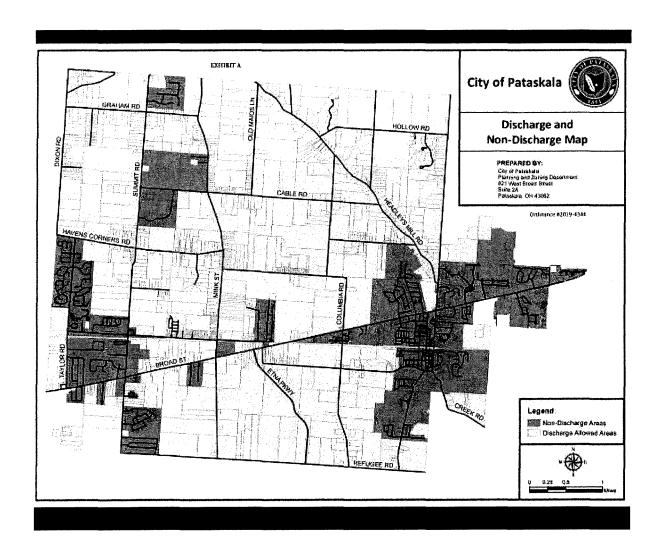
505.11 HUNTING AND DISCHARGE PROHIBITED.

- (a) Except as otherwise provided herein, the hunting of animals or fowl within the Municipality or the discharge of firearms is prohibited. No person shall hunt, kill or attempt to kill any animal or fowl by the use of firearms or any other means except as permitted in subsection (b) hereof. However, nothing in this section shall be deemed to prohibit the killing of sick, diseased, infirm or injured animals, as well as rats and other undesirable rodents, provided such killing is done in a safe and humane manner.
- (b) It shall be lawful to hunt and trap pursuant to Ohio Revised Code Chapters 1531 and 1533 and when in conformity with all Division of Wildlife rules when in a designated discharge zone.

(c) Discharge and Non-Discharge Map adopted.

- (1) <u>Division of land.</u> All land in the City is placed into either a discharge or non-discharge zone as it is shown on the Discharge and Non-Discharge Map of the City, which is hereby adopted and declared a part of this section.
- (2) <u>Final authority</u>. The Discharge and Non-Discharge Map, as amended from time to time, shall be the final authority for the current hunting and trapping status of land or the discharge of firearms under the jurisdiction of this section.
- (3) <u>Land not otherwise designated.</u> All land under this section and not designated or otherwise included within the discharge zone shall be included in a prohibited non-discharge zone.
- (4) <u>Identification of the Discharge and Non-Discharge Map.</u> The Discharge and Non-Discharge Map with any amendments made thereon shall be identified by the following words:

"Discharge and Non-Discharge Map" and containing the ordinance number and date of the adoption of the most recent amendment to said map by the Council of the City of Pataskala. (Ord. 2013-4154. Passed 9-16-13.)



(Ord. 2019-4344. Passed 9-3-19.)

- (d) No owner, lessee, or other occupant or person having control or exercising control of land within the discharge zone shall discharge or permit any other person to discharge any firearm outside of an enclosed building from dusk to dawn, other than for hunting permitted in compliance with the rules and regulations issued by the Ohio Department of Natural Resources, Division of Wildlife, or in the act of self-defense. In addition and other than for lawful hunting, the discharge of firearms otherwise permitted shall be restricted in duration to a time period that shall not unreasonably harass, annoy or disturb livestock or residents within the City. The discharge of a firearm permitted hereunder shall be conducted in a safe and lawful manner; such as those practices recommended by the National Rifle Association Range Sourcebook as revised January 2004.
- (e) Whoever violates this section is guilty of the improper discharge of a firearm, a minor misdemeanor for the first offense. Any subsequent offense within twelve months is a misdemeanor of the fourth degree. A third offense under this section within twelve months is a misdemeanor of the third degree.

 (Ord. 2013-4154. Passed 9-16-13.)

505.12 COLORING RABBITS OR BABY POULTRY; SALE OR DISPLAY OF POULTRY.

- (a) No person shall dye or otherwise color any rabbit or baby poultry, including, but not limited to, chicks and ducklings. No person shall sell, offer for sale, expose for sale, raffle or give away any rabbit or poultry which has been dyed or otherwise colored. No poultry younger than four weeks of age may be sold, given away or otherwise distributed to any person in lots of less than six. Stores, shops, vendors and others offering young poultry for sale or other distribution shall provide and operate brooders or other heating devices that may be necessary to maintain poultry in good health, and shall keep adequate food and water available to the poultry at all times. (ORC 925.62)
 - (b) Whoever violates this section is guilty of a minor misdemeanor.

505.13 DANGEROUS WILD ANIMALS AND RESTRICTED SNAKES.

- (a) For purposes of this section, "dangerous wild animal" and "restricted snake" have the same meanings as set forth in Ohio R.C. 935.01.
 - (b) (1) Except for a restricted snake specified in Ohio R.C. 935.01(L)(1), no person shall sell or offer for sale at auction a dangerous wild animal or restricted snake.
 - (2) Except for a microchip removed for purposes of a medical emergency by a veterinarian that is qualified to provide veterinary care to the dangerous wild animal, no person shall knowingly remove a microchip that is implanted in a dangerous wild animal as required in Ohio R.C. 935.04.
 - (3) No person that possesses a dangerous wild animal or restricted snake shall fail to post and display any of the following:
 - A. On each cage in which a dangerous wild animal is confined, signs warning the public that a dangerous wild animal is confined in the cage;
 - B. At each entrance to the property where a dangerous wild animal is confined, a sign warning the public that a dangerous wild animal is on the property;
 - C. On each container in which a restricted snake is confined, a sign warning the public that a restricted snake is in the container;

- D. At the main entrance to each structure where a restricted snake is confined, a sign warning the public that a restricted snake is in the structure:
- E. On a vehicle that is used to transport a dangerous wild animal or restricted snake, a sign warning that a dangerous wild animal or restricted snake, as applicable, is in the vehicle.

The signs shall comply with standards established in rules adopted by the State Director of Agriculture.

- (4) No person shall allow a dangerous wild animal or restricted snake to roam off the property where it is confined.
- No person shall remove any teeth or claws from a dangerous wild animal or restricted snake, as applicable, unless determined to be medically necessary by a veterinarian. (ORC 935.18)
- (c) Whoever violates this section is guilty of a misdemeanor of the first degree on the first offense. On a second or subsequent offense, such person is guilty of a felony and shall be prosecuted under appropriate State law. (ORC 935.99)

505.99 PENALTY.

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

CHAPTER 506 Domesticated Farm Animals and Bees on Lots of Less Than Five Acres

	Purpose. Chickens, ducks, rabbits	506.05	General regulations and nuisances.
	and similar animals.	506.06	Administration.
506.03	Standards and habitat.	506.99	Penalty.
506.04	Bees.		•

CROSS REFERENCES
Animals and fowl - see GEN. OFF. Ch. 505

506.01 PURPOSE.

- (a) The regulations of this section are established to permit the keeping of certain domesticated farm animals and bees on lots of less than 5 acres in a manner that prevents nuisances to occupants of nearby properties and prevents conditions that are unsanitary or unsafe. (Note that farm animals of all types, without restrictions by this Section, continue to be allowed on lots of greater than 5 acres.)
- (b) <u>Personal Use Only.</u> For the purposes of this Section, farm animals as stipulated in Section 506.02, relate only to those kept, raised or used in any manner related to a personal or household use, such as for personal consumption, education, or as pets. They may not be kept, raised or used for commercial purposes, including but not limited to the sale of chickens or eggs or to convey the same for profit, which shall be deemed a commercial farm operation and subject to the limitations of the underlying zoning district.
 - (c) <u>Limitations and Prohibitions.</u>
 - (1) No roosters, geese, turkeys or other large vocal poultry, may be kept except on a parcel that is not less than five (5) acres in area.
 - (2) No predatory birds may be kept on any property under the regulations of this Section.
 - (3) Goats, Swine, Sheep and Hooved Animals. Goats, swine, sheep, equine, bovine, alpacas, llamas or similar domesticated animals shall only be kept on a property between two (2) and less than five (5) acres provided the underlying zoning district is R-87, RR or AG, and are limited in number to no more than the following:

- A. <u>Equine, Llamas, Swine, Bovine:</u> A limit of two (2) such animals with an additional increment of one (1) such animal for every one (1) acre in area greater than two and one-half (2 1/2) acres in area.
- B. Sheep, Goats, Alpacas: A limit of four (4) such animals with an additional increment of two (2) such animals for every one (1) acre in area greater than two and one-half (2 1/2) acres in area. (Ord. 2012-4109. Passed 11-5-12.)

506.02 CHICKENS, DUCKS, RABBITS AND SIMILAR ANIMALS.

The keeping of chickens, ducks, rabbits and similar (small, non-hooved) farm animals, and cages, coops and enclosures for the keeping of such animals, on lots of less than five (5) acres shall be governed by the following regulations. (Ord. 2012-4109. Passed 11-5-12.)

506.03 STANDARDS AND HABITAT.

In all zoning districts, the following regulations shall apply.

- (a) Number.
 - (1) Chickens, ducks and similar small poultry: No more than four (4) such animals, of more than 2 months in age, shall be kept on a parcel of land of at least 10,000 square feet of parcel or lot area. For larger parcels, two (2) additional animals may be kept for each additional increment of 10,000 square feet of lot area, subject to a limitation of not more than twenty-four (24) of all such poultry more than 2 months in age on lots less than five (5) acres in area. In general, such animals shall not be allowed in developed Multi-Family or Manufactured Housing Districts. Each keeper of such animals shall have sole control of a lot of a minimum of 10,000 square feet in area.
 - (2) Rabbits and small domesticated fur-bearing animals kept exclusively in cages: No more than four (4) adults of such animals, of more than four (4) months of age may be kept on any lot of at least 10,000 square feet of lot area, but less than one (1) acre in area. An additional four (4) adults of such animals may be kept for each additional acre of lot area greater than one (1) acre.
- (b) <u>Setbacks.</u> The coops or cages housing such animals may not be located in front yard or side street yard areas and shall be consistent with the side and rear setback requirements of the base zoning district. No animals shall be kept in required front yard or yard areas abutting named streets. Non-conforming historic carriage houses, or other small barns, sheds, garages, existing prior to the passage of this section shall be allowed to be used as coops regardless of relationship to current setbacks in effect.
- (c) <u>Coops and Cages</u>. All animals shall be provided with a covered, predator-proof coop or cage or other shelter that is thoroughly ventilated, designed to be easily accessed and cleaned, and of sufficient size to permit free movement of the animals, exclusive of areas used for storage of materials or vehicles. The total area of all coops or cages on a lot shall not be less than four (4) square feet per animal. Coops and cages, singly or in combination, shall not exceed fifteen (15) feet in height.

(d) Enclosures. Chickens and other birds shall have access to an outdoor enclosure adequately bounded to contain the birds on the property and to prevent access by dogs and other predators and providing at least ten (10) square feet of area for each bird. (Ord. 2012-4109. Passed 11-5-12.)

506.04 BEES.

The keeping of bees, and associated beehives, shall be governed by the following regulations.

- (a) Number. No more than one (1) beehive shall be kept for lots of 10,000 square feet of lot area but less than one (1) acre in area, and no beehive shall be kept on a lot less than 10,000 square feet in area. For larger parcels, one (1) additional hive may be kept for each additional increment of one (1) acre in lot area greater than one (1) acre. Beekeeping on lots of greater than five (5) acres is not regulated by this section.
- (b) <u>Location and Setbacks</u>. No beehive shall be located within the side and rear setback areas established for the base zoning district and in any case, no closer than ten (10) feet to any neighbor's dwelling, and no beehive shall be kept in a required front yard or side yard abutting a street. The front of any beehive shall face inward to the lot, away from the property line of the next property closest to the beehive.
- (c) Fences and Shrubs. On lots of less than five (5) acres, a solid fence or dense hedge, known as a "flyway barrier," at least six (6) feet in height, shall be placed along the side of the beehive that contains the entrance to the hive, and shall be located within five (5) feet of the hive and shall extend at least two (2) feet on either side of the hive. No such flyway barrier shall be required if all beehives are located at least twenty-five (25) feet from all property lines and for beehives that are located on porches or balconies at least ten (10) feet above grade, except if such porch or balcony is located less than five (5) feet from a property line.

(d) Water Supply. A supply of fresh water shall be maintained in a location readily accessible to all bee colonies on the site throughout the day to prevent bees from congregating at neighboring swimming pools or other sources of water on nearby properties.

(e) <u>Prohibitions.</u> No Africanized bees may be kept on a property under the regulations of this Section.
(Ord. 2012-4109. Passed 11-5-12.)

506.05 GENERAL REGULATIONS AND NUISANCES.

- (a) <u>Lots Without a Residence.</u> Notwithstanding the provisions of sections of the Pataskala Zoning Ordinance regarding Accessory Uses, farm animals or bees may be kept on a lot that is vacant or has no occupied residence provided it is adjacent and adjoins to a lot that is occupied by the keeper of such farm animals or bees.
- (b) <u>Sanitation and Nuisances.</u> Farm animals and bees regulated by this section shall be kept only in conditions that limit odors and the attraction of insects and rodents so as not to cause a nuisance to occupants of nearby buildings or properties and not to cause health hazards. Furthermore, such farm animals shall not be kept in a manner that is injurious or unhealthful to the animals being kept on the property.
- (c) <u>Animal or Bird Noise.</u> It shall be unlawful for any person or other party operating or occupying any building or premises to keep or allow to be kept any animal or bird that makes noise so as to habitually disturb the peace and quiet of any person in the vicinity of the premises.

(d) <u>Slaughtering of Animals</u>. Chickens, ducks, rabbits and similar small animals may be slaughtered on site only inside a garage or other building and only if for use by the occupants of the premises and not for sale. No other farm animal may be slaughtered on site. Slaughtering of animals shall only occur in conditions that limit odors and the attraction of insects and rodents so as not to cause a nuisance to occupants of nearby buildings or properties; so as not to cause health hazards; and waste disposal must be in conformance with the requirements of the applicable water and sewer provider, and/or County Health Department, and/ or the City's approved waste handler. (Ord. 2012-4109. Passed 11-5-12.)

506.06 ADMINISTRATION.

(a) <u>Building Permits.</u> According to applicable laws of the State of Ohio, a building permit from the Licking County Building Department, or other agent selected by City Council to serve as the City's Certified Building Inspector, may be required for construction of a stable or

other structure routinely requiring such permit,

EDITOR'S NOTE: At this time, the County generally does not require Building Permits for cages, coops or beehives that are not permanently attached to the ground or attached to another structure, and do not have electrical service and do not exceed thirty-two (32) square feet in area nor eight (8) feet in height. Building Permits are not required for the barrier constituting a required enclosure if such barrier is not permanently attached to the ground and does not exceed three (3) feet in height.

Zoning Permits are not required for hedges that are used as a "flyway" barrier.

- (b) <u>Building Conditions.</u> The keeping of farm animals or bees shall not be permitted on a property occupied by a building that has been condemned by the City of Pataskala.
- (c) <u>Variances.</u> City Council may approve variance to the regulations of this section as they apply to a particular property if it determines that such variance will be consistent with the stated purpose of this Section.
- (d) <u>Definitions.</u> Terms used in this Section shall have the meanings assigned to them in the following definitions.
 - (1) <u>Farm animal.</u> "Farm animal" means any domestic species of animal that is kept and raised for use as food or in the production of food or in the operation of a farm and is not an "exotic animal" as defined by the Ohio Revised Code and is not a house pet such as a dog, cat or similar animal.
 - (2) <u>Coop and cage.</u> "Coop" and "cage" mean a structure, not necessarily attached to the ground, with a top and sides and designed to provide shelter and protection for small animals or birds.
 - (3) Enclosure. "Enclosure" means a set of walls or fences designed to confine animals or birds to a space that is large enough to permit the animals and birds to roam relatively freely in an open yard area.

(4) <u>Predatory bird.</u> "Predatory bird" means an owl, hawk, falcon, eagle or similar bird that feeds principally by catching living prey.

(5) <u>Similar animal</u>. Any farm animal that is similar to other animals listed in a particular category of permitted animals with respect to impacts on nearby properties, including noise, odors, safety hazards or other nuisances. (Ord. 2012-4109. Passed 11-5-12.)

506.99 PENALTY.

Failure to comply with the requirements of this Section constitutes a minor misdemeanor. A second subsequent violation within a 12-month period constitutes a misdemeanor of the fourth degree. Subsequent violations within a 12-month period constitute a misdemeanor of the third degree. (Ord. 2012-4109. Passed 11-5-12.)

CHAPTER 509 Disorderly Conduct and Peace Disturbance

509.01	Riot.	509.05	Misconduct at an emergency.
509.01	1 Inciting to violence.	509.06	Inducing panic.
	2 Failure to disperse.	509.07	Making false alarms.'
	B Disorderly conduct;	509.08	Unreasonably loud noise.
	intoxication.		Penalty.
509.04	Disturbing a lawful		v

CROSS REFERENCES

See sectional histories for similar State law
Use of force to suppress riot - see Ohio R.C. 2917.05
Cordoning off riot areas, prohibiting sales of firearms
and explosives - see Ohio R.C. 3761.16
Emergency suspension of permits and sales by Director of
Liquor Control - see Ohio R.C 4301.251
Criminal trespass - see GEN. OFF. 541.05

509.01 RIOT.

meeting.

- (a) No person shall participate with four or more others in a course of disorderly conduct in violation of Section 509.03:
 - (1) With purpose to commit or facilitate the commission of a misdemeanor, other than disorderly conduct;
 - With purpose to intimidate a public official or employee into taking or refraining from official action, or with purpose to hinder, impede or obstruct a function of government;
 - (3) With purpose to hinder, impede or obstruct the orderly process of administration or instruction at an educational institution, or to interfere with or disrupt lawful activities carried on at such institution.
- (b) No person shall participate with four or more others with purpose to do an act with unlawful force or violence, even though such act might otherwise be lawful.
- (c) Whoever violates this section is guilty of riot, a misdemeanor of the first degree. (ORC 2917.03)

509.011 INCITING TO VIOLENCE.

- (a) No person shall knowingly engage in conduct designed to urge or incite another to commit any offense of violence, when either of the following apply:
 - (1) The conduct takes place under circumstances that create a clear and present danger that any offense of violence will be committed;
 - (2) The conduct proximately results in the commission of any offense of violence.
- (b) Whoever violates this section is guilty of inciting to violence. If the offense of violence that the other person is being urged or incited to commit is a misdemeanor, inciting to violence is a misdemeanor of the first degree. (ORC 2917.01)

509.02 FAILURE TO DISPERSE.

- (a) Where five or more persons are participating in a course of disorderly conduct in violation of Section 509.03, and there are other persons in the vicinity whose presence creates the likelihood of physical harm to persons or property or of serious public inconvenience, annoyance or alarm, a law enforcement officer or other public official may order the participants and such other persons to disperse. No person shall knowingly fail to obey such order.
- (b) Nothing in this section requires persons to disperse who are peaceably assembled for a lawful purpose.
 - (c) (1) Whoever violates this section is guilty of failure to disperse.
 - (2) Except as otherwise provided in subsection (c)(3) hereof, failure to disperse is a minor misdemeanor.
 - (3) Failure to disperse is a misdemeanor of the fourth degree if the failure to obey the order described in subsection (a) hereof, creates the likelihood of physical harm to persons or is committed at the scene of a fire, accident, disaster, riot, or emergency of any kind. (ORC 2917.04)

509.03 DISORDERLY CONDUCT; INTOXICATION.

- (a) No person shall recklessly cause inconvenience, annoyance or alarm to another by doing any of the following:
 - (1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;
 - (2) Making unreasonable noise or offensively coarse utterance, gesture or display, or communicating unwarranted and grossly abusive language to any person, which by its very utterance or usage inflicts injury or tends to incite an immediate breach of the peace;
 - (3) Insulting, taunting or challenging another, under circumstances in which such conduct is likely to provoke a violent response;
 - (4) Hindering or preventing the movement of persons on a public street, road, highway or right of way, or to, from, within or upon public or private property, so as to interfere with the rights of others, and by any act that serves no lawful and reasonable purpose of the offender;
 - Creating a condition that is physically offensive to persons or that presents a risk of physical harm to persons or property, by any act that serves no lawful and reasonable purpose of the offender.

- (b) No person, while voluntarily intoxicated shall do either of the following:
 - (1) In a public place or in the presence of two or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance or alarm to persons of ordinary sensibilities, which conduct the offender, if the offender were not intoxicated, should know is likely to have that effect on others:
 - Engage in conduct or create a condition that presents a risk of physical harm to the offender or another, or to the property of another.
- (c) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft or other vehicle while under the influence of alcohol or any drug of abuse, is not a violation of subsection (b) hereof.
- (d) If a person appears to an ordinary observer to be intoxicated, it is probable cause to believe that person is voluntarily intoxicated for purposes of subsection (b) hereof.
 - (e) (1) Whoever violates this section is guilty of disorderly conduct.
 - (2) Except as otherwise provided in subsections (e)(3) and (e)(4), disorderly conduct is a minor misdemeanor.
 - (3) Disorderly conduct is a misdemeanor of the fourth degree if any of the following applies:
 - A. The offender persists in disorderly conduct after reasonable warning or request to desist.
 - B. The offense is committed in the vicinity of a school or in a school safety zone.
 - C. The offense is committed in the presence of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person who is engaged in the person's duties at the scene of a fire, accident, disaster, riot or emergency of any kind.
 - D. The offense is committed in the presence of any emergency facility person who is engaged in the person's duties in an emergency facility.
 - (4) If an offender previously has been convicted of or pleaded guilty to three or more violations of subsection (b) of this section, a violation of subsection (b) of this section is a misdemeanor of the fourth degree.
 - (f) As used in this section:
 - (1) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
 - (2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
 - "Emergency facility" has the same meaning as in Ohio R.C. 2909.04.
 - "Committed in the vicinity of a school" has the same meaning as in Ohio R.C. 2925.01. (ORC 2917.11)

509.04 DISTURBING A LAWFUL MEETING.

- (a) No person, with purpose to prevent or disrupt a lawful meeting, procession or gathering, shall do either of the following:
 - (1) Do any act which obstructs or interferes with the due conduct of such meeting, procession or gathering;
 - Make any utterance, gesture or display which outrages the sensibilities of the group.

(b) Whoever violates this section is guilty of disturbing a lawful meeting, a misdemeanor of the fourth degree. (ORC 2917.12)

509.05 MISCONDUCT AT AN EMERGENCY.

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

(1) Hamper the lawful operations of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person, engaged in the person's duties at the scene of a fire, accident, disaster, riot, or emergency of any kind;

(2) Hamper the lawful activities of any emergency facility person who is engaged in the person's duties in an emergency facility;

- (3) Fail to obey the lawful order of any law enforcement officer engaged in the law enforcement officer's duties at the scene of or in connection with a fire, accident, disaster, riot, or emergency of any kind.
- (b) Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of the news media representative's duties.
- (c) Whoever violates this section is guilty of misconduct at an emergency. Except as otherwise provided in this subsection, misconduct at an emergency is a misdemeanor of the fourth degree. If a violation of this section creates a risk of physical harm to persons or property, misconduct at an emergency is a misdemeanor of the first degree.
 - (d) As used in this section:
 - (1) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
 - (2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
 - "Emergency facility" has the same meaning as in Ohio R.C. 2909.04. (ORC 2917.13)

509.06 INDUCING PANIC.

- (a) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:
 - (1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that such report or warning is false;
 - (2) Threatening to commit any offense of violence;
 - (3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.
- (b) Division (a) hereof does not apply to any person conducting an authorized fire or emergency drill.
- (c) Whoever violates this section is guilty of inducing panic, a misdemeanor of the first degree. If inducing panic results in physical harm to any person, economic harm of one thousand dollars (\$1,000) or more, if the public place involved in a violation of this section is a school or an institution of higher education, or if the violation pertains to a purported, threatened or actual use of a weapon of mass destruction, inducing panic is a felony and shall be prosecuted under appropriate State law.
- (d) Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.

- (e) As used in this section:
 - (1) "Economic harm" means any of the following:
 - A. All direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" as described in this division includes, but is not limited to, all of the following:
 - 1. All wages, salaries, or other compensation lost as a result of the criminal conduct;
 - 2. The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
 - 3. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
 - 4. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.
 - B. All costs incurred by the Municipality as a result of, or in making any response to, the criminal conduct that constituted the violation of this section or Section 509.07, including, but not limited to, all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services personnel of the state or the political subdivision.
 - (2) "School" means any school operated by a board of education or any school for which the state board of education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a violation of this section is committed.
 - (3) "Weapon of mass destruction" means any of the following:
 - A. Any weapon that is designed or intended to cause death or serious physical harm through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;
 - B. Any weapon involving a disease organism or biological agent;
 - C. Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life;
 - D. Any of the following, except to the extent that the item or device in question is expressly excepted from the definition of "destructive device" pursuant to 18 U.S.C. 921(a)(4) and regulations issued under that section:
 - 1. Any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device;
 - 2. Any combination of parts either designed or intended for use in converting any item or device into any item or device described in division (e)(3)D.1. of this section and from which an item or device described in that division may be readily assembled.
 - (4) "Biological agent" has the same meaning as in Ohio R.C. 2917.33.
 - "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;
 - 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) <u>Definitions.</u> 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.
- "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.
- "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.
- "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.
 - 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.
 - 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.)

CHAPTER 513 Drug Abuse Control

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CROSS REFERENCES

See sectional histories for similar State law Federal prosecution bar to local prosecution - see Ohio R.C. 2925.50, 3719.19

Analysis report and notarized statement as evidence - see Ohio R.C 2925.51

Criteria for granting probation - see Ohio R.C 3719.70(B)
Adulterating food with drug of abuse - see GEN. OFF. 537.13
Using weapons while under the influence - see GEN. OFF. 549.03
Medical marijuana cultivators, processors and retail dispensaries - see BUS. REG. 745.01

513.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words, terms and phrases and their derivatives used in this chapter which are not defined in this section shall have the meanings given to them in the Ohio Revised Code.

(a) "Administer." Has the same meaning as in Ohio R.C. 3719.01.

(b) "Adulterate." To cause a drug to be adulterated as described in Ohio R.C. 3715.63.

(c) "Bulk amount." Of a controlled substance, means any of the following:

(1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II, or Schedule III, with the exception of any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in subsection (c)(2), (5), or (6) of this definition, whichever of the following is applicable:

- A. An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;
- B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;
- C. An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a Schedule I stimulant or depressant;
- D. An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;
- E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;
- F. An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws, as defined in this section, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
- G. An amount equal to or exceeding three grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws;
- (2) An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
- (3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III opiate or opium derivative;
- (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance;
- (5) An amount equal to or exceeding 200 solid dosage units, sixteen grams, or sixteen milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid;

- (6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V, if the defendant is charged with a violation of Ohio R.C. 2925.11 and the sentencing provisions set forth in Ohio R.C. 2925.11(C)(10)(b) and (C)(11) will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (1), (2), (3), (4), or (5) of this definition for the other Schedule III, Schedule IV, or Schedule V controlled substance that is combined with the fentanyl-related compound.
- (d) "Certified grievance committee." A duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the state that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.
- (e) "Cocaine." Any of the following:
 - (1) A cocaine salt, isomer or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine.
 - (2) Coca leaves or a salt, compound, derivative or preparation of coca leaves, including ecgonine, a salt, isomer or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine.
 - (3) A salt, compound, derivative or preparation of a substance identified in subsection (e)(1) or (2) of this definition that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.
- (f) "Committed in the vicinity of a juvenile." An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within 100 feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within 100 feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.
- (g) "Committed in the vicinity of a school." An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, in a school building, or within 1,000 feet of the boundaries of any school premises.
- (h) "Controlled substance." Has the same meaning as in Ohio R.C. 3719.01.
- (i) "Controlled substance analog." Has the same meaning as in Ohio R.C. 3719.01.
- (i) "Counterfeit controlled substance." Any of the following:
 - (1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to the trademark, trade name or identifying mark.
 - Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it.
 - (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance.
 - (4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its markings, labeling, packaging, distribution or the price for which it is sold or offered for sale.

- (k) "Cultivate." Includes planting, watering, fertilizing or tilling.
- (1) "Dangerous drug." Has the same meaning as in Ohio R.C. 4729.01.
- (m) "Deception." Has the same meaning as in Ohio R.C. 2913.01.
- (n) "Disciplinary counsel." The disciplinary counsel appointed by the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court under the Rules for the Government of the Bar of Ohio.
- (o) "Dispense." Has the same meaning as in Ohio R.C. 3719.01.
- (p) "Distribute." Has the same meaning as in Ohio R.C. 3719.01.
- (q) "Drug." Has the same meaning as in Ohio R.C. 4729.01.
- (r) "Drug abuse offense." Any of the following:
 - (1) A violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs, or any violation of Ohio R.C. 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37.
 - A violation of an existing or former law of any municipality, state or of the United States, that is substantially equivalent to any section listed in subsection (r)(1) of this definition.
 - (3) An offense under an existing or former law of any municipality, state or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element.
 - (4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under subsection (r)(1), (2) or (3) of this definition.
- (s) "Drug dependent person." Has the same meaning as in Ohio R.C. 3719.011.
- (t) "Drug of abuse." Has the same meaning as in Ohio R.C. 3719.011.
- (u) "Felony drug abuse offense." Any drug abuse offense that would constitute a felony under the laws of this state, any other state or the United States.
- (v) "Fentanyl-related compound." Any of the following:
 - (1) Fentanyl;
 - (2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
 - Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
 - (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidinyl]-N-phenylpropanamide);
 - (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);
 - (6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
 - (7) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidinyl]---phenylpropanamide);
 - (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide;
 - (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide;
 - (10) Alfentanil:
 - (11) Carfentanil;
 - (12) Remifentanil;
 - (13) Sufentanil;

- (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-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.
- "Manufacture." To plant, cultivate, harvest, process, make, prepare or otherwise (ee) 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. "Manufacturer." Has the same meaning as in Ohio R.C. 3719.01.

(ff)

- (gg) "Marihuana." Has the same meaning as in Ohio R.C. 3719.01, except that it does not include hashish.
- "Methamphetamine." Methamphetamine, any salt, isomer or salt of an isomer of (hh) methamphetamine, or any compound, mixture, preparation or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.

"Minor drug possession offense." Either of the following: (ii)

- (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.
- "Official written order." Has the same meaning as in Ohio R.C. 3719.01. (jj)

(kk) "Person." Has the same meaning as in Ohio R.C. 3719.01.

"Pharmacist." Has the same meaning as in Ohio R.C. 3719.01. (11)

"Pharmacy." Has the same meaning as in Ohio R.C. 3719.01. (mm)

"Possess" or "possession." Having control over a thing or substance but may not (nn) 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.

(00)"Prescription." Has the same meaning as in Ohio R.C. 4729.01.

- "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 (pp) is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under Ohio R.C. 2929.11.
- "Professional license." Any license, permit, certificate, registration, qualification, (qq) 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.

"Professionally licensed person." Any of the following: (rr)

> A person who has received a certificate or temporary certificate as a (1) 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;

> A person who holds a certificate of qualification to practice architecture (2)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;

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;
- A person licensed and regulated to engage in the business of a debt pooling (6) 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 III", "Schedule IV" or "Schedule V." Have the same meaning as in Ohio R.C. 3719.01.
- (ww) "School." Any school operated by a board of education, any community school established under Ohio R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.
- (xx) "School building." Any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.
- (yy) "School premises." Either of the following:
 - (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed.

- (2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under Ohio R.C. Chapter 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.
- (zz) "Standard Pharmaceutical Reference Manual." The current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.
- (aaa) "Unit dose." An amount or unit or a compound, mixture or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.
- (bbb) "Wholesaler." Has the same meaning as in Ohio R.C. 3719.01. (ORC 2925.01)

513.02 GIFT OF MARIHUANA.

- (a) No person shall knowingly give or offer to make a gift of twenty grams or less of marihuana.
- (b) Whoever violates this section is guilty of trafficking in marihuana. Trafficking in marihuana is a minor misdemeanor for the first offense and, for any subsequent offense, it is a misdemeanor of the third degree. If the offense was committed in the vicinity of a school or the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.
- (c) The court may by order suspend for not more than five years the driver's or commercial driver's license or permit of any person who is convicted of or pleads guilty to any violation of this section. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit is suspended pursuant to this subsection, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed, may file a motion with the sentencing court requesting termination of the suspension; upon the filing of such a motion and the court's finding of good cause for the termination, the court may terminate the suspension. (ORC 2925.03)

513.03 DRUG ABUSE; CONTROLLED SUBSTANCE POSSESSION OR USE.

- (a) No person shall knowingly obtain, possess or use a controlled substance or a controlled substance analog.
 - (b) (1) This section does not apply to the following:
 - A. Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.
 - B. If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;
 - C. Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act;
 - D. Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs if the prescription was issued for a legitimate medical purpose and not altered, forged or obtained through deception or commission of a theft offense.

As used in subsection (b)(1)D. of this section, "deception" and "theft offense" have the same meanings as in Ohio R.C. 2913.01.

- (2) A. As used in subsection (b)(2) of this section:
 - "Community addiction services provider" has the same meaning as in Ohio R.C. 5119.01.

- 2. "Community control sanction" and "drug treatment program" have the same meanings as in Ohio R.C. 2929.01.
- 3. "Health care facility" has the same meaning as in Ohio R.C. 2919.16.
- 4. "Minor drug possession offense" means a violation of this section that is a misdemeanor or a felony of the fifth degree.
- 5. "Post-release control sanction" has the same meaning as in Ohio R.C. 2967.28.
- 6. "Peace officer" has the same meaning as in Ohio R.C. 2935.01.
- 7. "Public agency" has the same meaning as in Ohio R.C. 2930.01.
- 8. "Qualified individual" means a person who is not on community control or post-release control and is a person acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.
- 9. "Seek or obtain medical assistance" includes, but is not limited to making a 9-1-1 call, contacting in person or by telephone call an on-duty peace officer, or transporting or presenting a person to a health care facility.
- B. Subject to subsection (b)(2)F. of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted or penalized pursuant to this chapter for a minor drug possession offense if all of the following apply:
 - 1. The evidence of the obtaining, possession or use of the controlled substance or controlled substance analog that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.
 - 2. Subject to subsection (b)(2)G. of this section, within thirty days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.
 - 3. Subject to subsection (b)(2)G. of this section, the qualified individual who obtains a screening and receives a referral for treatment under subsection (b)(2)B.1. of this section, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that subsection. The documentation shall be limited to the date and time of the screening obtained and referral received.
- C. If a person is found to be in violation of any community control sanction and if the violation is a result of either of the following, the court shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating

the penalty specified in Ohio R.C. 2929.13, 2929.15, or 2929.25, whichever is applicable, after which the court has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in any of those applicable sections:

1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;

2. Experiencing a drug overdose and seeking medical assistance for that overdose or being the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.

D. If a person is found to be in violation of any post-release control sanction and if the violation is a result of either of the following, the court or the parole board shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in Ohio R.C. 2929.141 or 2967.28, whichever is applicable, after which the court or the parole board has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in either of those applicable sections:

1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;

2. Experiencing a drug overdose and seeking medical assistance for that emergency or being the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.

E. Nothing in subsection (b)(2)B. of this section shall be construed to do any of the following:

1. Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of subsection (b)(2)B. of this section or with regards to any crime other than a minor drug possession offense committed by a person who qualifies for protection pursuant to subsection (b)(2)B. of this section for a minor drug possession offense;

2. Limit any seizure of evidence or contraband otherwise permitted by law;

3. Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that division;

4. Limit, modify or remove any immunity from liability available pursuant to law in effect prior to the effective date of this amendment to any public agency or to an employee of any public agency.

F. Subsection (b)(2)B. of this section does not apply to any person who twice previously has been granted an immunity under subsection (b)(2)B. of this section. No person shall be granted an immunity under subsection (b)(2)B. of this section more than two times.

- G. Nothing in this section shall compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the "Health Insurance Portability and Accountability Act of 1996", 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and regulations promulgated by the United States Department of Health and Human Services to implement the act or the requirements of 42 C.F.R. Part 2.
- (c) Whoever violates subsection (a) hereof is guilty of one of the following:
 - (1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule III, IV, or V, whoever violates subsection (a) hereof is guilty of possession of drugs. Possession of drugs is a misdemeanor if the amount of the drug involved does not exceed the bulk amount. The penalty for the offense shall be determined as follows: possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, a felony and shall be prosecuted under appropriate State law.
 - (2) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates subsection (a) hereof is guilty of possession of marihuana. Possession of marihuana is a misdemeanor if the amount of the drug involved does not exceed 200 grams. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(2)B. hereof, possession of marihuana is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.
 - (3) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates subsection (a) hereof is guilty of possession of hashish. Possession of hashish is a misdemeanor if the amount of the drug involved does not exceed the maximum amount specified in subsection (c)(3)B. hereof. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(3)B. hereof, possession of hashish is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.
- (d) In addition to any other sanction that is imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

(e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness. (ORC 2925.11)

513.04 POSSESSING DRUG ABUSE INSTRUMENTS.

- (a) No person shall knowingly make, obtain, possess or use any instrument, article or thing the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.
- (b) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.
- (c) Whoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender previously has been convicted of a drug abuse offense, violation of this section is a misdemeanor of the first degree.
- (d) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.12)

513.05 PERMITTING DRUG ABUSE.

- (a) No person, who is the owner, operator or person in charge of a locomotive, watercraft, aircraft or other vehicle as defined in Ohio R.C 4501.01(A), shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.
- (b) No person, who is the owner, lessee or occupant, or who has custody, control or supervision of premises, or real estate, including vacant land, shall knowingly permit the premises, or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.
- (c) Whoever violates this section is guilty of permitting drug abuse, a misdemeanor of the first degree. If the felony drug abuse offense in question is a violation of Ohio R.C. 2925.02, 2925.03, 2925.04 or 2925.041 as provided in Ohio R.C. 2925.13, permitting drug abuse is a felony and shall be prosecuted under appropriate State law.
- (d) In addition to any other sanction imposed for an offense under this section, the court that sentences a person who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

(e) Any premises or real estate that is permitted to be used in violation of subsection (b) hereof constitutes a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767. (ORC 2925.13)

513.06 ILLEGAL CULTIVATION OF MARIHUANA.

- (a) No person shall knowingly cultivate marihuana.
- (b) This section does not apply to any person listed in Ohio R.C. 2925.03(B)(1) to (3) to the extent and under the circumstances described in those divisions.
- (c) Whoever commits a violation of subsection (a) hereof is guilty of illegal cultivation of marihuana. Illegal cultivation of marihuana is a misdemeanor if the amount of marihuana involved does not exceed 200 grams.
 - (1) Except as otherwise provided in subsection (c)(2) hereof, illegal cultivation of marihuana is a minor misdemeanor, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the fourth degree.
 - (2) If the amount of marihuana involved equals or exceeds 100 grams but is less than 200 grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree.
- (d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of Ohio R.C. 2925.03. If an offender's driver's or commercial driver's license or permit is suspended in accordance with that division, the offender may request termination of, and the court may terminate, the suspension in accordance with that division.
- (e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in an application for employment, a license, or any other right or privilege or made in connection with the person's appearance as a witness. (ORC 2925.04)

513.07 POSSESSING OR USING HARMFUL INTOXICANTS.

- (a) Except for lawful research, clinical, medical, dental or veterinary purposes, no person, with purpose to induce intoxication or similar physiological effects, shall obtain, possess or use a harmful intoxicant.
- (b) Whoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the first degree. If the offender previously has been convicted of a drug abuse offense, abusing harmful intoxicants is a felony and shall be prosecuted under appropriate State law.
- (c) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.31)

513.08 ILLEGALLY DISPENSING DRUG SAMPLES.

- (a) No person shall knowingly furnish another a sample drug.
- (b) Subsection (a) hereof does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731, and 4741.
- (c) Whoever violates this section is guilty of illegal dispensing of drug samples. If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in Schedule III, IV, or V, or is marihuana, the penalty for the offense shall be determined as follows:
 - (1) Except as otherwise provided in subsection (c)(2) hereof, illegal dispensing of drug samples is a misdemeanor of the second degree.
 - (2) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.
- (d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.36)

513.09 CONTROLLED SUBSTANCE OR PRESCRIPTION LABELS.

(a) As used in this section, "repackager" and "outsourcing facility" have the same meanings as in ORC 4729.01.

Whenever a manufacturer sells a controlled substance, and whenever a wholesaler, repackager, or outsourcing facility sells a controlled substance in a package the wholesaler, repackager or outsourcing facility has prepared, the manufacturer or the wholesaler, repackager or outsourcing facility, as the case may be, shall securely affix to each package in which the controlled substance is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of controlled substance contained therein. No person, except a pharmacist for the purpose of dispensing a controlled substance upon a prescription shall alter, deface or remove any label so affixed.

- (b) Except as provided in subsection (c) of this section, when a pharmacist dispenses any controlled substance on a prescription for use by a patient, or supplies a controlled substance to a licensed health professional authorized to prescribe drugs for use by the professional in personally furnishing patients with controlled substances, the pharmacist shall affix to the container in which the controlled substance is dispensed or supplied a label showing the following:
 - (1) The name and address of the pharmacy dispensing or supplying the controlled substance;
 - The name of the patient for whom the controlled substance is prescribed and, if the patient is an animal, the name of the owner and the species of the animal;
 - (3) The name of the prescriber;
 - (4) All directions for use stated on the prescription or provided by the prescriber;

- (5) The date on which the controlled substance was dispensed or supplied;
- The name, quantity and strength of the controlled substance and, if applicable, the name of the distributor or manufacturer.
- (c) The requirements of subsection (b) of this section do not apply when a controlled substance is prescribed or supplied for administration to an ultimate user who is institutionalized.
- (d) A licensed health professional authorized to prescribe drugs who personally furnishes a controlled substance to a patient shall comply with division (A) of ORC 4729.291 with respect to labeling and packaging of the controlled substance.
- (e) No person shall alter, deface, or remove any label affixed pursuant to this section as long as any of the original contents remain.
- (f) Every label for a schedule II, III or IV controlled substance shall contain the following warning:

"Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed". (ORC 3719.08)

(g) Whoever violates this section is guilty of a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.07 or 3719.08 or a drug abuse offense, such violation is a felony and shall be prosecuted under appropriate State law. (ORC 3719.99)

513.10 HYPODERMIC POSSESSION, DISPLAY AND DISPENSING.

(a) Possession of a hypodermic is authorized for the following:

- (1) A manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, and any authorized agent or employee of that manufacturer, distributor or dealer, in the regular course of business;
- (2) Terminal distributor of dangerous drugs, in the regular course of business;

A person authorized to administer injections, in the regular course of the person's profession or employment;

- (4) A person, when the hypodermic was lawfully obtained and is kept and used for the purpose of self-administration of insulin or other drug prescribed for the treatment of disease by a licensed health professional authorized to prescribe drugs;
- (5) A person whose use of a hypodermic is for legal research, clinical, educational or medicinal purposes;

(6) A farmer, for the lawful administration of a drug to an animal;

- (7) A person whose use of a hypodermic is for lawful professional, mechanical, trade or craft purposes.
- (b) No manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, or their authorized agents or employees, and no terminal distributor of dangerous drugs, shall display any hypodermic for sale. No person authorized to possess a hypodermic pursuant to division (a) of this section shall negligently fail to take reasonable precautions to prevent any hypodermic in the person's possession from theft or acquisition by any unauthorized person. (ORC 3719.172)
- (c) Whoever violates this section is guilty of a misdemeanor of the third degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.05, 3719.06, 3719.13, 3719.172(B) or (E), or 3719.31 or a drug abuse offense, a violation is a misdemeanor of the first degree. (ORC 3719.99)

513.11 HARMFUL INTOXICANTS; POSSESSING NITROUS OXIDE IN MOTOR VEHICLE.

- (a) As used in this section, "motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.
- (b) Unless authorized under Ohio R.C. Chapter 3719, 4715, 4729, 4731, 4741 or 4765, no person shall possess an open cartridge of nitrous oxide in either of the following circumstances:
 - (1) While operating or being a passenger in or on a motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking;
 - While being in or on a stationary motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking.
- (c) Whoever violates this section is guilty of possessing nitrous oxide in a motor vehicle, a misdemeanor of the fourth degree.
- (d) In addition to any other sanction imposed upon an offender for possessing nitrous oxide in a motor vehicle, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. (ORC 2925.33)

513.12 DRUG PARAPHERNALIA.

- (a) As used in this section, "drug paraphernalia" means any equipment, product or material of any kind that is used by the offender, intended by the offender for use or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance in violation of this chapter or Ohio R.C. Chapter 2925. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products or materials that are used by the offender, intended by the offender for use or designated by the offender for use, in any of the following manners:
 - A kit for propagating, cultivating, growing or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived:
 - (2) A kit for manufacturing, compounding, converting, producing, processing or preparing a controlled substance;
 - (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine;
 - (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;
 - (5) Testing equipment for identifying, or analyzing the strength, effectiveness or purity of, a controlled substance;
 - (6) A scale or balance for weighing or measuring a controlled substance;
 - (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, for cutting a controlled substance;
 - (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana;
 - (9) A blender, bowl, container, spoon or mixing device for compounding a controlled substance;
 - (10) A capsule, balloon, envelope or container for packaging small quantities of a controlled substance;

- (11) A container or device for storing or concealing a controlled substance;
- (12) A hypodermic syringe, needle or instrument for parenterally injecting a controlled substance into the human body;
- An object, instrument or device for ingesting, inhaling or otherwise introducing into the human body, marihuana, cocaine, hashish or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic or ceramic pipe, with or without a screen, permanent screen, hashish head or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.
- (b) In determining if any equipment, product or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:
 - (1) Any statement by the owner, or by anyone in control, of the equipment, product or material, concerning its use;
 - The proximity in time or space of the equipment, product or material, or of the act relating to the equipment, product or material, to a violation of any provision of this chapter or Ohio R.C. Chapter 2925;
 - (3) The proximity of the equipment, product or material to any controlled substance;
 - (4) The existence of any residue of a controlled substance on the equipment, product or material:
 - (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product or material, to deliver it to any person whom the owner or person in control of the equipment, product or material knows intends to use the object to facilitate a violation of any provision of this chapter or Ohio R.C. Chapter 2925. A finding that the owner, or anyone in control, of the equipment, product or material, is not guilty of a violation of any other provision of this chapter or Ohio R.C. Chapter 2925, does not prevent a finding that the equipment, product or material was intended or designed by the offender for use as drug paraphernalia;
 - (6) Any oral or written instruction provided with the equipment, product or material concerning its use;
 - (7) Any descriptive material accompanying the equipment, product or material and explaining or depicting its use;
 - (8) National or local advertising concerning the use of the equipment, product or material;
 - (9) The manner and circumstances in which the equipment, product or material is displayed for sale;
 - (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product or material to the total sales of the business enterprise;
 - (11) The existence and scope of legitimate uses of the equipment, product or material in the community;
 - (12) Expert testimony concerning the use of the equipment, product or material.
 - (c) Subject to subsection (d)(2) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.

- (2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product or material will be used as drug paraphernalia.
- (3) No person shall place an advertisement in any newspaper, magazine, handbill or other publication that is published and printed and circulates primarily within this State, if the person knows that the purpose of the advertisement is to promote the illegal sale in the State of the equipment, product or material that the offender intended or designed for use as drug paraphernalia.
- (d) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.
 - (2) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.
- (e) Notwithstanding Ohio R.C. Chapter 2981, any drug paraphernalia that was used, possessed, sold or manufactured in violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to Ohio R.C. 2981.12.
 - (f) Whoever violates subsection (c)(1) hereof is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.
 - (2) Except as provided in subsection (f)(3) hereof, whoever violates subsection (c)(2) hereof is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.
 - Whoever violates subsection (c)(2) hereof by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.
 - Whoever violates subsection (c)(3) hereof is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.
- (g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38. (ORC 2925.14)

513.121 MARIHUANA DRUG PARAPHERNALIA.

(a) As used in this section, "drug paraphernalia" has the same meaning as in Section 513.12.

- (b) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, all factors identified in subsection (b) of Section 513.12.
- (c) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.
- (d) This section does not apply to any person identified in subsection (d)(1) of Section 513.12 and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.
- (e) Subsection (e) of Section 513.12 applies with respect to any drug paraphernalia that was used or possessed in violation of this section.
- (f) Whoever violates subsection (c) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor.
- (g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38. (ORC 2925.141)

513.13 COUNTERFEIT CONTROLLED SUBSTANCES.

- (a) No person shall knowingly possess any counterfeit controlled substance.
- (b) Whoever violates this section is guilty of possession of counterfeit controlled substances, a misdemeanor of the first degree. (ORC 2925.37)
- (c) The court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.37)

513.14 OFFENDER MAY BE REQUIRED TO PAY FOR CONTROLLED SUBSTANCE TESTS.

In addition to the financial sanctions authorized or required under Ohio R.C. 2929.18 and 2929.28 and to any costs otherwise authorized or required under any provision of law, the court imposing sentence upon an offender who is convicted of or pleads guilty to a drug abuse offense may order the offender to pay to the state, municipal, or county law enforcement agencies that handled the investigation and prosecution all of the costs that the state, municipal corporation, or county reasonably incurred in having tests performed under Ohio R.C. 2925.51, or in any other manner on any substance that was the basis of, or involved in, the offense to determine whether

the substance contained any amount of a controlled substance if the results of the tests indicate that the substance tested contained any controlled substance. No court shall order an offender under this section to pay the costs of tests performed on a substance if the results of the tests do not indicate that the substance tested contained any controlled substance.

The court shall hold a hearing to determine the amount of costs to be imposed under this section. The court may hold the hearing as part of the sentencing hearing for the offender. (ORC 2925.511)

513.15 SALE OR POSSESSION OF CERTAIN CHEMICALS BEING MARKETED AS, BUT NOT LIMITED TO BATH SALTS.

- (a) It is unlawful for any persons or corporation knowing, or under circumstances where one reasonably should know, to sell, lend, rent, lease, give, exchange, or otherwise distribute to any persons or corporations any product containing the following chemicals: JWH-018, JWH-200, JWH-073, CP-47, 497, Cannabicyclohexanol, 3.4Methylenedioxyprovalerone (MDPV), Methylone, Mephedrone, 4Methoxymethcathinone, 4-Fluoromethcathinone, and 3-Fluoromethcathinolle, and marketed as, but not limited to, incense, potpourri, or bath salts; and,
- (b) It is unlawful for any person or corporation knowing, or under circumstances where one reasonably should know, to display for sale or possess with intent to distribute any product containing the following chemicals: JWH-018, JWH-200, JWH-073, CP-47, 497, Cannabicyclohexanol, 3.4 Methylenedioxyprovalerone (MDPV), Methylone, Mephedrone, 4-Methoxymethcathinone, 4-Fluoromethcathinone, and 3-Fluoromethcathinone, and marketed as, but not limited, to incense, potpourri, or bath salts; and,
- (c) It is unlawful for any person to use, or to possess with intent to use, ingest, inhale, or otherwise introduce into the human body any product containing the following chemicals: JWH-018, JWH-200, JWH-073, CP-47, 497, Cannabicyclohexanol, 3.4 Methylenedioxyprovalerone (MDPV), Methylone, Mephedrone, 4Methoxymethcathinone, 4-Fluoromethcathinone, and 3-Fluoromethcathinone, and marketed as, but not limited to, incense, potpourri, or bath salts.

 (Ord. 2011-4044. Passed 8-22-11.)

513.99 PENALTY.

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

CHAPTER 517 Gambling

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CROSS REFERENCES

See sectional histories for similar State law Lotteries prohibited; exception - see Ohio Const., Art. XV, Sec. 6

Contributing to delinquency of minors - see Ohio R.C. 2151.41 Search warrants - see Ohio R.C. 2933.21(E) Licensing charitable bingo games - see Ohio R.C. 2915.08

517.01 DEFINITIONS.

As used in this chapter:

(a) "Bookmaking" means the business of receiving or paying off bets.

(b) "Bet" means the hazarding of anything of value upon the result of an event, undertaking or contingency, but does not include a bona fide business risk.

"Scheme of chance" means a slot machine unless authorized under Ohio R.C. Chapter 3772, lottery unless authorized under Ohio R.C. Chapter 3770, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit. "Scheme of chance" includes the use of an electronic device to reveal the results of a game entry if valuable consideration is paid, directly or indirectly, for a chance to win a prize. Valuable consideration is deemed to be paid for a chance to win a prize in the following instances:

(1) Less than fifty per cent of the goods or services sold by a scheme of chance operator in exchange for game entries are used or redeemed by

participants at any one location;

- (2) Less than fifty per cent of participants who purchase goods or services at any one location do not accept, use or redeem the goods or services sold or purportely sold;
- (3) More than fifty per cent of prizes at any one location are revealed to participants through an electronic device simulating a game of chance or a "casino game" as defined in Ohio R.C. 3772.01;
- (4) The good or service sold by a scheme of chance operator in exchange for a game entry cannot be used or redeemed in the manner advertised;
- (5) A participant pays more than fair market value for goods or services offered by a scheme of chance operator in order to receive one or more game entries;
- (6) A participant may use the electronic device to purchase additional game entries:
- (7) A participant may purchase additional game entries by using points or credits won as prizes while using the electronic device;
- (8) A scheme of chance operator pays out in prize money more than twenty per cent of the gross revenue received at one location; or
- (9) A participant makes a purchase or exchange in order to obtain any good or service that may be used to facilitate play on the electronic device.

As used in this subsection, "electronic device" means a mechanical, video, digital or electronic machine or device that is capable of displaying information on a screen or other mechanism and that is owned, leased or otherwise possessed by any person conducting a scheme of chance, or by that person's partners, affiliates, subsidiaries or contractors.

- (d) "Game of chance" means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.
- (e) "Game of chance conducted for profit" means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.
 - (f) "Gambling device" means any of the following:
 - (1) A book, totalizer or other equipment for recording bets;
 - A ticket, token or other device representing a chance, share or interest in a scheme of chance or evidencing a bet;
 - A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;
 - (4) Any equipment, device, apparatus or paraphernalia specially designed for gambling purposes;
 - (5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter.
- (g) "Gambling offense" means the following:
 - (1) A violation of Ohio R.C. 2915.02 to 2915.092, 2915.10 or 2915.11;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in subsection (g)(1) hereof or a violation of Ohio R.C. 2915.06 as it existed prior to July 1, 1996;
 - (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States, of which gambling is an element;
 - (4) A conspiracy or attempt to commit, or complicity in committing an offense under subsection (g)(1), (2) or (3) hereof.
- (h) Except as otherwise provided in this chapter, "charitable organization" means either of the following:

- (1) An organization that is and has received from the Internal Revenue Service a determination letter that currently is in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
- (2) A volunteer rescue service organization, volunteer firefighter's organization, veteran's organization, fraternal organization, or sporting organization that is exempt from federal, income taxation under subsection 501(c)(4), (c)(7), (c)(8), (c)(10) or (c)(19) of the Internal Revenue Code.

To qualify as a charitable organization, an organization shall have been in continuous existence as such in this State for a period of two years immediately preceding either the making of an application for a bingo license under Ohio R.C. 2915.08 or the conducting of any game of chance as provided in division (D) of Ohio R.C. 2915.02.

(i) "Religious organization" means any church, body of communicants or group that is not organized or operated for profit, that gathers in common membership for

regular worship and religious observances.

- "Veteran's organization" means any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit is incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association or has received a letter from the national veteran's association indicating that the state headquarters is in good standing with the national veteran's association. As used in this subsection, "national veteran's association" means any veteran's association that has been in continuous existence as such for a period of at least five years and either is incorporated by an act of the United States congress or has a national duespaying membership of at least five thousand persons.
- (k) "Volunteer firefighter's organization" means any organization of volunteer firefighters, as defined in Ohio R.C. 146.01, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township.
- (l) "Fraternal organization" means any society, order, state headquarters, or association within this State, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge or chapter of a national or state organization, that exists exclusively for the common business of sodality of its members.
- (m) "Volunteer rescue service organization" means any organization of volunteers organized to function as an emergency medical service organization as defined in Ohio R.C. 4765.01.
- (n) "Charitable bingo game" means any bingo game described in subsection (o)(1) or (2) of this section that is conducted by a charitable organization that has obtained a license pursuant to Ohio R.C. 2915.08 and the proceeds of which are used for a charitable purpose.
- (o) "Bingo" means either of the following:
 - (1) A game with all of the following characteristics:
 - A. The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into twenty-five spaces arranged in five horizontal and five vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter and a number and with the central space being designated as a free space.

- B. The participants cover the space on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator.
- C. A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically from a receptacle that contains seventy-five objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the seventy-five possible combinations of a letter and a number that can appear on the bingo cards or sheets.
- D. The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers as described in subsection (o)(1)C. hereof, that a predetermined and preannounced pattern of spaces has been covered on a bingo card or sheet being used by a participant.
- (2) Instant bingo, punch boards and raffles.
- (p) "Conduct" means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance, a scheme of chance, or a sweepstakes.
- (q) "Bingo game operator" means any person, except security personnel, who performs work or labor at the site of bingo, including, but not limited to, collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages.
- (r) "Participant" means any person who plays bingo.
- (s) "Bingo session" means a period that includes both of the following:
 - (1) Not to exceed five continuous hours for the conduct of one or more games described in subsection (o)(1) of this section, instant bingo, and seal cards:
 - (2) A period for the conduct of instant bingo and seal cards for not more than two hours before and not more than two hours after the period described in subsection (s)(1) of this section.
- (t) "Gross receipts" means all money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. "Gross receipts" does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:
 - (1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to conducting bingo.
 - (2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage.
 - (3) The food and beverages are sold at customary and reasonable prices.

(u) "Security personnel" includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or a police officer of a municipal corporation or has successfully completed a peace officer's training course pursuant to Ohio R.C. 109.71 to 109.79 and who is hired to provide security for the premises on which bingo is conducted.

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- (v) "Charitable purpose" means that the net profit of bingo, other than instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:
 - (1) Any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
 - (2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least seventy-five per cent of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in division (B)(12) of Ohio R.C. 5739.02, is used for awarding scholarships to or for attendance at an institution mentioned in division (B)(12) of Ohio R.C. 5739.02, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;
 - (3) A fraternal organization that has been in continuous existence in this State for fifteen years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals if contributions for such use would qualify as a deductible charitable contribution under subsection 170 of the Internal Revenue Code;
 - (4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in subsection (k) of this section.
- (w) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U..S.C. 1, as now or hereafter amended.
- (x) "Youth athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are twenty-one years of age or younger by means of sponsoring, organizing, operating or contributing to the support of an athletic team, club, league or association.
- (y) "Youth athletic park organization" means any organization, not organized for profit, that satisfies both of the following:
 - (1) It owns, operates and maintains playing fields that satisfy both of the following:
 - A. The playing fields are used at least one hundred days per year for athletic activities by one or more organizations not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are eighteen years of age or younger by means of sponsoring, organizing, operating or contributing to the support of an athletic team, club, league or association;

B. The playing fields are not used for any profit-making activity at any time during the year,

(2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance and improvement of its playing fields of the type described

in paragraph (1) hereof.

"Bingo supplies" means bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are "bingo supplies" are not gambling devices if sold or otherwise provided, and used, in accordance with this chapter. For purposes of this chapter, "bingo supplies" are not to be considered equipment used to conduct a bingo game.

"Instant bingo" means a form of bingo that shall use folded or banded tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners, and may also include games in which some winners are determined by the random selection of one or more bingo numbers by the use of a seal card or bingo blower. In all "instant bingo" the prize amount and structure shall be predetermined. "Instant bingo" does not include any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.

(bb) "Seal card" means a form of instant bingo that uses instant bingo tickets in conjunction with a board or placard that contains one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols.

- (cc) "Raffle" means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffle are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle. "Raffle" does not include the drawing of a ticket stub or other detachable section of a ticket purchased to attend a professional sporting event if both of the following apply:
 - (1) The ticket stub or other detachable section is used to select the winner of a free prize given away at the professional sporting event; and

The cost of the ticket is the same as the cost of a ticket to the professional sporting event on days when no free prize is given away.

"Punch board" means a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle when used in conjunction with instant bingo. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.

(ee) "Gross profit" means gross receipts minus the amount actually expended for the

payment of prize awards.

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- (ff) "Net profit" means gross profit minus expenses.
- (gg) "Expenses" means the reasonable amount of gross profit actually expended for all of the following:
 - (1) The purchase or lease of bingo supplies;
 - (2) The annual license fee required under Ohio R.C. 2915.08;
 - (3) Bank fees and service charges for a bingo session or game account described in Ohio R.C. 2915.10;
 - (4) Audits and accounting services;
 - (5) Safes;
 - (6) Cash registers;
 - (7) Hiring security personnel;
 - (8) Advertising bingo;
 - (9) Renting premises in which to conduct a bingo session;
 - (10) Tables and chairs;
 - (11) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;
 - (12) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;
 - (13) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the Attorney General under division (B)(1) of Ohio R.C. 2915.08.
- (hh) "Person" has the same meaning as in Ohio R.C. 1.59 and includes any firm or any other legal entity, however organized.
- (ii) "Revoke" means to void permanently all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.
- "Suspend" means to interrupt temporarily all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.
- (kk) "Distributor" means any person who purchases or obtains bingo supplies and who does either of the following:
 - (1) Sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this State;
 - (2) Modifies, converts, adds to, or removes parts from the bingo supplies to further their promotion or sale for use in this State.
- (ll) "Manufacturer" means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.
- (mm) "Gross annual revenues" means the annual gross receipts derived from the conduct of bingo described in subsection (o)(1) of this section plus the annual net profit derived from the conduct of bingo described in subsection (o)(2) of this section.
- (nn) "Instant bingo ticket dispenser" means a mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:

(1) It is activated upon the insertion of United States currency.

(2) It performs no gaming functions.

- (3) It does not contain a video display monitor or generate noise.
- (4) It is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations.

(5) It does not simulate or display rolling or spinning reels.

- (6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or nonwinning ticket or card and requires a winning ticket or card to be paid by a bingo game operator.
- (7) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses.

(8) It is not part of an electronic network and is not interactive.

- (00) (1) "Electronic bingo aid" means an electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:
 - A. It provides a means for a participant to input numbers and letters announced by a bingo caller.
 - B. It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.

C. It identifies a winning bingo pattern.

- "Electronic bingo aid" does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.
- (pp) "Deal of instant bingo tickets" means a single game of instant bingo tickets all with the same serial number.

(qq) (1) "Slot machine" means either of the following:

- A. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain;
- B. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct bingo or a scheme or game of chance.

(2) "Slot machine" does not include a skill-based amusement machine or an instant bingo ticket dispenser.

(rr) "Net profit from the proceeds of the sale of instant bingo" means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of instant bingo supplies, and, in the case of instant bingo conducted by a veteran's, fraternal or sporting organization, minus the payment by that organization of real property taxes, and assessments levied on a premises on which instant bingo is conducted.

"Charitable instant bingo organization" means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and is a charitable organization as defined in this section. A "charitable instant bingo organization" does not include a charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is created by a veteran's organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization, a fraternal organization, or a sporting organization pursuant to Ohio R.C. 2915.13.

- "Game flare" means the board or placard that accompanies each deal of instant bingo tickets and that has printed on or affixed to it the following information for the game:
 - (1) The name of the game;
 - (2) The manufacturer's name or distinctive logo;
 - (3) The form number;
 - (4) The ticket count;
 - (5) The prize structure, including the number of winning instant bingo tickets by denomination and the respective winning symbol or number combinations for the winning instant bingo tickets;
 - (6) The cost per play;

(7) The serial number of the game.

- (uu) (1) "Skill-based amusement machine" means mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:
 - A. The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed ten dollars;
 - B. Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than ten dollars;
 - C. Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than ten dollars times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and
 - D. Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.

A card for the purchase of gasoline is a redeemable voucher for purposes of division (uu)(1) of this section even if the skill-based amusement machine for the play of which the card is awarded is located at a place where gasoline may not be legally distributed to the public or the card is not redeemable at the location of, or at the time of playing, the skill-based amusement machine.

- A device shall not be considered a skill-based amusement machine and shall be considered a slot machine if it pays cash or one or more of the following apply:
 - A. The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game.
 - B. Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the player's score;
 - C. The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded for winning the game, can be controlled by a source other than any player playing the game.
 - D. The success of any player is or may be determined by a chance event that cannot be altered by player actions.

E. The ability of any player to succeed at the game is determined by game features not visible or known to the player.

F. The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.

(3) All of the following apply to any machine that is operated as described in subsection (uu)(1) of this section:

A. As used in subsection (uu) of this section, "game" and "play" mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single game, play, contest, competition or tournament may be awarded redeemable vouchers or merchandise prizes based on the results of play.

B. Advance play for a single game, play, contest, competition or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single noncontest, competition or tournament play.

C. To the extent that the machine is used in a contest, competition or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition or tournament.

(4) For purposes of subsection (uu)(1) of this section, the mere presence of a device, such as a pin-setting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill-based amusement machine.

(vv) "Merchandise prize" means any item of value, but shall not include any of the following:

(1) Cash, gift cards, or any equivalent thereof;

Plays on games of chance, state lottery tickets, bingo, or instant bingo;

(3) Firearms, tobacco, or alcoholic beverages; or

- (4) A redeemable voucher that is redeemable for any of the items listed in subsection (vv)(1), (2) or (3) of this section.
- (ww) "Redeemable voucher" means any ticket, token, coupon, receipt, or other noncash representation of value.
- (xx) "Pool not conducted for profit" means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.
- (yy) "Sporting organization" means a hunting, fishing or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to, the league of Ohio sportsmen, and that has been in continuous existence in this State for a period of three years.

(zz) "Community action agency" has the same meaning as in Ohio R.C. 122.66.

- (aaa) (1) "Sweepstakes terminal device" means a mechanical, video, digital or electronic machine or device that is owned, leased or otherwise possessed by any person conducting a sweepstakes, or by that person's partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant, and that is capable of displaying information on a screen or other mechanism. A device is a sweepstakes terminal device if any of the following apply:
 - A. The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
 - B. The device utilizes software such that the simulated game influences or determines the winning of or value of the prize.
 - C. The device selects prizes from a predetermined finite pool of entries.
 - D. The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
 - E. The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.

F. The device utilizes software to create a game result.

- G. The device reveals the prize incrementally, even though the device does not influence the awarding of the prize or the value of any prize awarded.
- H. The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.
- (2) As used in this subsection and in Section 517.02:
 - A. "Enter" means the act by which a person becomes eligible to receive any prize offered in a sweepstakes.
 - B. "Entry" means one event from the initial activation of the sweepstakes terminal device until all of the sweepstakes prize results from that activation are revealed.
 - C. "Prize" means any gift, award, gratuity, good, service, credit, reward or any other thing of value that may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.
 - D. "Sweepstakes terminal device facility" means any location in this Municipality where a sweepstakes terminal device is provided to a sweepstakes participant, except as provided in Ohio R.C. 2915.02(G).

(bbb) "Sweepstakes" means any game, contest, advertising scheme or plan, or other promotion where consideration is not required for a person to enter to win or become eligible to receive any prize, the determination of which is based upon chance. "Sweepstakes" does not include bingo as authorized under this chapter, pari-mutuel wagering as authorized by Ohio R.C. Chapter 3769, lotteries conducted by the State Lottery Commission as authorized by Ohio R.C. Chapter 3770, and casino gaming as authorized by Ohio R.C. Chapter 3772. (ORC 2915.01)

517.02 GAMBLING.

- (a) No person shall do any of the following:
 - (1) Engage in bookmaking, or knowingly engage in conduct that facilitates bookmaking;
 - (2) Establish, promote, or operate or knowingly engage in conduct that facilitates any game of chance conducted for profit or any scheme of chance;
 - (3) Knowingly procure, transmit, exchange, or engage in conduct that facilitates the procurement, transmission, or exchange of information for use in establishing odds or determining winners in connection with bookmaking or with any game of chance conducted for profit or any scheme of chance;
 - (4) Engage in betting or in playing any scheme or game of chance as a substantial source of income or livelihood;
 - (5) Conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility and either:
 - A. Give to another person any item described in subsection (vv)(1), (2), (3) or (4) of Section 517.01 as a prize for playing or participating in a sweepstakes; or
 - B. Give to another person any merchandise prize, or a redeemable voucher for a merchandise prize, the wholesale value of which is in excess of ten dollars and which is awarded as a single entry for playing or participating in a sweepstakes. Redeemable vouchers shall not be redeemable for a merchandise prize that has a wholesale value of more than ten dollars.
 - (6) Conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility without first obtaining a current annual "certificate of registration" from the Attorney General as required by division (F) of Ohio R.C. 2915.02.
 - (7) With purpose to violate subsection (a)(1), (2), (3), (4), (5) or (6) of this section, acquire, possess, control, or operate any gambling device.

- (b) For purposes of subsection (a)(1) of this section, a person facilitates bookmaking if the person in any way knowingly aids an illegal bookmaking operation, including, without limitation, placing a bet with a person engaged in or facilitating illegal bookmaking. For purposes of subsection (a)(2) of this section, a person facilitates a game of chance conducted for profit or a scheme of chance if the person in any way knowingly aids in the conduct or operation of any such game or scheme, including, without limitation, playing any such game or scheme.
- (c) This section does not prohibit conduct in connection with gambling expressly permitted by law.
 - (d) This section does not apply to any of the following:
 - (1) Games of chance, if all of the following apply:
 - A. The games of chance are not craps for money or roulette for money.
 - B. The games of chance are conducted by a charitable organization that is, and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is, exempt from Federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code.
 - C. The games of chance are conducted at festivals of the charitable organization that are conducted not more than a total of five days a calendar year, and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization for a period of no less than one year immediately preceding the conducting of the games of chance.

A charitable organization shall not lease premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(1)C. hereof if the veteran's or fraternal organization has already leased the premises twelve times during the preceding year to charitable organizations for that purpose. If a charitable organization leases premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(1)C. hereof, the charitable organization shall not pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under Section 517.06(b)(1) when it leases premises from another charitable organization to conduct bingo games.

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- D. All of the money or assets received from the games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, or given, donated or otherwise transferred to, any organization that is described in subsection 509(a)(1), (2) or (3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code:
- E. The games of chance are not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to Section 517.13.

No person shall receive any commission, wage, salary, reward, tip, donations, gratuity or other form of compensation, directly or indirectly, for operating or assisting in the operation of any game of chance.

- Any tag fishing tournament operated under a permit issued under Ohio R.C. 1533.92, as "tag fishing tournament" is defined in Ohio R.C. 1531.01.
- (3) Bingo conducted by a charitable organization that holds a license issued under Ohio R.C. 2915.08.
- (e) Subsection (d) hereof shall not be construed to authorize the sale, lease or other temporary or permanent transfer of the right to conduct games of chance, as granted by subsection (d) hereof, by any charitable organization that is granted that right.
- (f) Whoever violates this section is guilty of gambling, a misdemeanor of the first degree. If the offender previously has been convicted of a gambling offense, gambling is a felony and shall be prosecuted under appropriate State law. (ORC 2915.02)

517.03 OPERATING A GAMBLING HOUSE.

- (a) No person, being the owner or lessee, or having custody, control or supervision of premises, shall:
 - (1) Use or occupy such premises for gambling in violation of Section 517.02;
 - (2) Recklessly permit such premises to be used or occupied for gambling in violation of Section 517.02.

- (b) Whoever violates this section is guilty of operating a gambling house, a misdemeanor of the first degree. If the offender previously has been convicted of a gambling offense, operating a gambling house is a felony and shall be prosecuted under appropriate State law.
- (c) Premises used or occupied in violation of this section constitute a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767. (ORC 2915.03)

517.04 PUBLIC GAMING.

- (a) No person, while at a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall make a bet or play any game of chance or scheme of chance.
- (b) No person, being the owner or lessee, or having custody, control, or supervision, of a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall recklessly permit those premises to be used or occupied in violation of subsection (a) of this section.
- (c) Subsections (a) and (b) of this section do not prohibit conduct in connection with gambling expressly permitted by law.
- (d) Whoever violates this section is guilty of public gaming. Except as otherwise provided in this subsection, public gaming is a minor misdemeanor. If the offender previously has been convicted of any gambling offense, public gaming is a misdemeanor of the fourth degree.
- (e) Premises used or occupied in violation of subsection (b) of this section constitute a nuisance subject to abatement under Ohio R.C. Chapter 3767. (ORC 2915.04)

517.05 CHEATING.

- (a) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall engage in conduct designed to corrupt the outcome of any of the following:
 - (1) The subject of a bet;
 - (2) A contest of knowledge, skill, or endurance that is not an athletic or sporting event;
 - (3) A scheme or game of chance;
 - (4) Bingo.
- (b) Whoever violates this section is guilty of cheating. Except as otherwise provided in this subsection cheating is a misdemeanor of the first degree. If the potential gain from the cheating is one thousand dollars (\$1,000) or more, or if the offender previously has been convicted of any gambling offense or of any theft offense as defined in Ohio R.C. 2913.01, cheating is a felony and shall be prosecuted under appropriate State law. (ORC 2915.05)

517.06 METHODS OF CONDUCTING A BINGO GAME; PROHIBITIONS.

- (a) No charitable organization that conducts bingo shall fail to do any of the following:
 - (1) Own all of the equipment used to conduct bingo or lease that equipment from a charitable organization that is licensed to conduct bingo, or from the landlord of a premises where bingo is conducted, for a rental rate that is not more than is customary and reasonable for that equipment;
 - (2) Use, or give, donate, or otherwise transfer, all of the net profit derived from bingo, other than instant bingo, for a charitable purpose listed in its license application and described in Section 517.01(v), or distribute all of the net profit from the proceeds of the sale of instant bingo as stated in its license application and in accordance with Ohio R.C. 2915.101.
- (b) No charitable organization that conducts a bingo game described in Section 517.01(o)(1) shall fail to do any of the following:
 - (1)Conduct the bingo game on premises that are owned by the charitable organization, on premises that are owned by another charitable organization and leased from that charitable organization for a rental rate not in excess of the lesser of six hundred dollars (\$600.00) per bingo session or forty-five per cent of the gross receipts of the bingo session, on premises that are leased from a person other than a charitable organization for a rental rate that is not more than is customary and reasonable for premises that are similar in location, size, and quality but not in excess of four hundred fifty dollars (\$450.00) per bingo session, or on premises that are owned by a person other than a charitable organization, that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of four hundred fifty dollars (\$450.00) per bingo session. No charitable organization is required to pay property taxes or assessments on premises that the charitable organization leases from another person to conduct bingo sessions. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo sessions, the lessor of the premises shall provide the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo supplies, or any other type of service. A charitable organization shall not lease or sublease premises that it owns or leases to more than three other charitable organizations per calendar week for conducting bingo sessions on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases, or otherwise is empowered to lease to more than three charitable organizations per calendar week for conducting bingo sessions on the premises. In no case shall more than nine bingo sessions be conducted on any premises in any calendar week.
 - Display its license conspicuously at the premises where the bingo session is conducted:
 - Conduct the bingo session in accordance with the definition of bingo set forth in Section 517.01(0)(1).

- (c) No charitable organization that conducts a bingo game described in Section 517.01(o)(1) shall do any of the following:
 - (1) Pay any compensation to a bingo game operator for operating a bingo session that is conducted by the charitable organization or for preparing, selling, or serving food or beverages at the site of the bingo session, permit any auxiliary unit or society of the charitable organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at a bingo session conducted by the charitable organization, or permit any auxiliary unit or society of the charitable organization to prepare, sell, or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;
 - (2) Pay consulting fees to any person for any services performed in relation to the bingo session;
 - Pay concession fees to any person who provides refreshments to the participants in the bingo session;
 - (4) Except as otherwise provided in subsection (c)(4) of this section, conduct more than three bingo sessions in any seven-day period. A volunteer firefighter's organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than three bingo sessions in a seven-day period after notifying the Attorney General when it will conduct the sessions;
 - (5) Pay out more than six thousand dollars (\$6,000) in prizes for bingo games described in Section 517.01(o)(1) during any bingo session that is conducted by the charitable organization. "Prizes" does not include awards from the conduct of instant bingo;
 - Conduct a bingo session at any time during the eight-hour period between (6) two a.m. and ten a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only pursuant to Ohio R.C. 2915.12, at any premises not specified on its license, or on any day of the week or during any time period not specified on its license. Subsection (c)(6) of this section does not prohibit the sale of instant bingo tickets beginning at nine a.m. for a bingo session that begins at ten a.m. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time, specified on its license or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the Attorney General for an amended license, pursuant to division (F) of Ohio R.C. 2915.08. A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day of the week, and at the time specified on its amended license;
 - (7) Permit any person whom the charitable organization knows, or should have known, is under the age of eighteen to work as a bingo game operator;
 - (8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;

- (9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo supplies, or any other type of service;
- (10) Purchase or lease bingo supplies from any person except a distributor issued a license under Ohio R.C. 2915.081;
- (11) A. Use or permit the use of electronic bingo aids except under the following circumstances:
 - 1. For any single participant, not more than ninety bingo faces can be played using an electronic bingo aid or aids.
 - 2. The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets.
 - 3. The total price of bingo faces played with an electronic bingo aid shall be equal to the total price of the same number of bingo faces played with a paper bingo card or sheet sold at the same bingo session but without an electronic bingo aid.
 - 4. An electronic bingo aid cannot be part of an electronic network other than a network that includes only bingo aids and devices that are located on the premises at which the bingo is being conducted or be interactive with any device not located on the premises at which the bingo is being conducted.
 - 5. An electronic bingo aid cannot be used to participate in bingo that is conducted at a location other than the location at which the bingo session is conducted and at which the electronic bingo aid is used.
 - 6. An electronic bingo aid cannot be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is conducted and at which the electronic bingo aid is used.
 - B. The Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that govern the use of electronic bingo aids. The rules may include a requirement that an electronic bingo aid be capable of being audited by the Attorney General to verify the number of bingo cards or sheets played during each bingo session.
- (12) Permit any person the charitable organization knows, or should have known, to be under eighteen years of age to play bingo described in Section 517.01(o)(1).
- (d) (1) Except as otherwise provided in subsection (d)(3) hereof, no charitable organization shall provide to a bingo game operator, and no bingo game operator shall receive or accept, any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting bingo or providing other work or labor at the site of bingo during a bingo session.
 - (2) Except as otherwise provided in subsection (d)(3) hereof, no charitable organization shall provide to a bingo game operator any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting instant bingo other than at a bingo session at the site of instant bingo other than at a bingo session.

- (3) Nothing in subsection (d) hereof prohibits an employee of a fraternal organization, veteran's organization, or sporting organization from selling instant bingo tickets or cards to the organization's members or invited guests, as long as no portion of the employee's compensation is paid from any receipts of bingo.
- (e) Notwithstanding subsection (b)(1) of this section, a charitable organization that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than two bingo sessions are conducted per calendar week on the premises, and a person that is not a charitable organization and that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to charitable organizations for the conducting of more than two bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than four sessions are conducted per calendar week, that the lessor organization or person has notified the Attorney General in writing of the organizations that will conduct the sessions and the days of the week and the times of the day on which the sessions will be conducted, that the initial lease entered into with each organization that will conduct the sessions was filed with the Attorney General prior to December 6, 1977, and that each organization that will conduct the sessions was issued a license to conduct bingo games by the Attorney General prior to December 6, 1977.
- (f) This section does not prohibit a bingo licensed charitable organization or a game operator from giving any person an instant bingo ticket as a prize.
- (g) Except as otherwise provided in this subsection, whoever violates subsection (a)(1) or (2), (b)(1), (2), or (3), (c)(1) to (11) or (d) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of subsection (a)(1) or (2), (b)(1), (2) or (3), (c)(1) to (11), or (d) of this section, a violation of subsection (a)(1) or (2), (b)(1), (2) or (3) or (c)(1) to (11) or (d) of this section is a misdemeanor of the first degree. Whoever violates subsection (c)(12) of this section is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (c)(12) of this section, a violation of subsection (c)(12) is a felony and shall be prosecuted under appropriate State law. (ORC 2915.09)

517.07 INSTANT BINGO CONDUCT.

- (a) No charitable organization that conducts instant bingo shall do any of the following:
 - (1) Fail to comply with the requirements of divisions (A)(1), (2), and (3) of Ohio R.C. 2915.09;
 - (2) Conduct instant bingo unless either of the following applies:
 - A. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(3) of the Internal Revenue Code, is a charitable organization as defined in Section 517.01, is in good standing in the State pursuant to Ohio R.C. 2915.08, and is in compliance with Ohio R.C. Chapter 1716;
 - B. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(8), 501(c)(10), or 501(c)(19) or is a veteran's organization described in subsection 501(c)(4) of the Internal Revenue Code, and conducts instant bingo under Section 517.14.

- Conduct instant bingo on any day, at any time, or at any premises not specified on the organization's license issued pursuant to Ohio R.C. 2915.08;
- (4) Permit any person whom the organization knows or should have known has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator in the conduct of instant bingo;
- Purchase or lease supplies used to conduct instant bingo or punch board games from any person except a distributor licensed under Ohio R.C. 2915.081;
- (6) Sell or provide any instant bingo ticket or card for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare;
- (7) Sell an instant bingo ticket or card to a person under eighteen years of age;
- (8) Fail to keep unsold instant bingo tickets or cards for less than three years;
- Pay any compensation to a bingo game operator for conducting instant bingo that is conducted by the organization or for preparing, selling, or serving food or beverages at the site of the instant bingo game, permit any auxiliary unit or society of the organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at an instant bingo game conducted by the organization, or permit any auxiliary unit or society of the organization to prepare, sell, or serve food or beverages at an instant bingo game conducted by the organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;
- (10) Pay fees to any person for any services performed in relation to an instant bingo game, except as provided in Section 517.09(d);
- (11) Pay fees to any person who provides refreshments to the participants in an instant bingo game;
- (12) A. Allow instant bingo tickets or cards to be sold to bingo game operators at a premises at which the organization sells instant bingo tickets or cards or to be sold to employees of a D permit holder who are working at a premises at which instant bingo tickets or cards are sold;
 - B. Subsection (a)(12)A. of this section does not prohibit a licensed charitable organization or a bingo game operator from giving any person an instant bingo ticket as a prize in place of a cash prize won by a participant in an instant bingo game. In no case shall an instant bingo ticket or card be sold or provided for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare.
- (13) Fail to display its bingo license, and the serial numbers of the deal of instant bingo tickets or cards to be sold, conspicuously at each premises at which it sells instant bingo tickets or cards;
- Possess a deal of instant bingo tickets or cards that was not purchased from a distributor licensed under Ohio R.C. 2915.081 as reflected on an invoice issued by the distributor that contains all of the information required by Section 517.11(f);
- (15) Fail, once it opens a deal of instant bingo tickets or cards, to continue to sell the tickets or cards in that deal until the tickets or cards with the top two highest tiers of prizes in that deal are sold;
- Possess bingo supplies that were not obtained in accordance with Ohio R.C. 2915.01 to 2915.13.

- (b) A charitable organization may purchase, lease, or use instant bingo ticket dispensers to sell instant bingo tickets or cards.
- (c) Whoever violates subsection (a) of this section or a rule adopted under Ohio R.C. 2915.091(C) is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (a) of this section or of such a rule, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law. (ORC 2915.091)

517.08 RAFFLES.

- (a) Subject to subsection (a)(2) of this section, a charitable organization, a public school, a chartered nonpublic school, a community school, or a veteran's organization, fraternal organization, or sporting organization that is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(3), 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code may conduct a raffle to raise money for the organization or school and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit.
 - (2) If a charitable organization that is described in subsection (a)(1) of this section, but that is not also described in subsection 501(c)(3) of the Internal Revenue Code, conducts a raffle, the charitable organization shall distribute at least fifty per cent of the net profit from the raffle to a charitable purpose described in Section 517.01(v) or to a department or agency of the federal government, the state, or any political subdivision.
- (b) Except as provided in subsection (a) of this section, no person shall conduct a raffle drawing that is for profit or a raffle drawing that is not for profit.
- (c) Whoever violates subsection (b) of this section is guilty of illegal conduct of a raffle. Except as otherwise provided in this subsection, illegal conduct of a raffle is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (b) of this section, illegal conduct of a raffle is a felony and shall be prosecuted under appropriate State law. (ORC 2915.092)

517.09 CHARITABLE INSTANT BINGO ORGANIZATIONS.

- (a) As used in this section, "retail income from all commercial activity" means the income that a person receives from the provision of goods, services, or activities that are provided at the location where instant bingo other than at a bingo session is conducted, including the sale of instant bingo tickets. A religious organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, at not more than one location at which it conducts its charitable programs, may include donations from its members and guests as retail income.
 - (b) (1) If a charitable instant bingo organization conducts instant bingo other than at a bingo session, the charitable instant bingo organization shall enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted to allow the owner or lessor to assist in the conduct of instant bingo other than at a bingo session, identify each location where the instant bingo other than at a bingo session is being conducted, and identify the owner or lessor of each location.

- (2) A charitable instant bingo organization that conducts instant bingo other than at a bingo session is not required to enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted provided that the owner or lessor is not assisting in the conduct of the instant bingo other than at a bingo session and provided that the conduct of the instant bingo other than at a bingo session at that location is not more than five days per calendar year and not more than ten hours per day.
- (c) Except as provided in subsection (f) of this section, no charitable instant bingo organization shall conduct instant bingo other than at a bingo session at a location where the primary source of retail income from all commercial activity at that location is the sale of instant bingo tickets.
- (d) The owner or lessor of a location that enters into a contract pursuant to subsection (b) of this section shall pay the full gross profit to the charitable instant bingo organization, in return for the deal of instant bingo tickets. The owner or lessor may retain the money that the owner or lessor receives for selling the instant bingo tickets, provided, however, that after the deal has been sold, the owner or lessor shall pay to the charitable instant bingo organization the value of any unredeemed instant bingo prizes remaining in the deal of instant bingo tickets.

The charitable instant bingo organization shall pay six per cent of the total gross receipts of any deal of instant bingo tickets for the purpose of reimbursing the owner or lessor for expenses described in this subsection.

As used in this subsection, "expenses" means those items provided for in subsections (gg)(4), (5), (6), (7), (8), (12) and (13) of Section 517.01 and that percentage of the owner's or lessor's rent for the location where instant bingo is conducted. "Expenses" in the aggregate, shall not exceed six per cent of the total gross receipts of any deal of instant bingo tickets.

As used in this subsection, "full gross profit" means the amount by which the total receipts of all instant bingo tickets, if the deal had been sold in full, exceeds the amount that would be paid out if all prizes were redeemed.

- (e) A charitable instant bingo organization shall provide the Attorney General with all of the following information:
 - (1) That the charitable instant bingo organization has terminated a contract entered into pursuant to subsection (b) of this section with an owner or lessor of a location;
 - (2) That the charitable instant bingo organization has entered into a written contract pursuant to subsection (b) of this section with a new owner or lessor of a location;
 - (3) That the charitable instant bingo organization is aware of conduct by the owner or lessor of a location at which instant bingo is conducted that is in violation of this chapter or Ohio R.C. Chapter 2915.
- (f) Subsection (c) of this section does not apply to a volunteer firefighter's organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, that conducts instant bingo other than at a bingo session on the premises where the organization conducts firefighter training, that has conducted instant bingo continuously for at least five years prior to July 1, 2003, and that, during each of those five years, had gross receipts of at least one million five hundred thousand dollars. (ORC 2915.093)

517.10 LOCATION OF INSTANT BINGO.

- (a) No owner or lessor of a location shall assist a charitable instant bingo organization in the conduct of instant bingo other than at a bingo session at that location unless the owner or lessor has entered into a written contract, as described in Section 517.09, with the charitable instant bingo organization to assist in the conduct of instant bingo other than at a bingo session.
- (b) The location of the lessor or owner shall be designated as a location where the charitable instant bingo organization conducts instant bingo other than at a bingo session.
- (c) No owner or lessor of a location that enters into a written contract as prescribed in subsection (a) of this section shall violate any provision of Ohio R.C. Chapter 2915, or permit, aid, or abet any other person in violating any provision of Ohio R.C. Chapter 2915.
- (d) No owner or lessor of a location that enters into a written contract as prescribed in subsection (a) of this section shall violate the terms of the contract.
 - (e) (1) Whoever violates subsection (c) or (d) of this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (c) or (d) of this section, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law.
 - (2) If an owner or lessor of a location knowingly, intentionally, or recklessly violates subsection (c) or (d) of this section, any license that the owner or lessor holds for the retail sale of any goods on the owner's or lessor's premises that is issued by the State or a political subdivision is subject to suspension, revocation, or payment of a monetary penalty at the request of the Attorney General. (ORC 2915.094)

517.11 BINGO OR GAME OF CHANCE RECORDS.

(a) No charitable organization that conducts bingo or a game of chance pursuant to Section 517.02(d), shall fail to maintain the following records for at least three years from the date on which the bingo or game of chance is conducted:

An itemized list of the gross receipts of each bingo session, each game of instant bingo by serial number, each raffle, each punch board game, and each game of chance, and an itemized list of the gross profits of each game of instant bingo by serial number;

An itemized list of all expenses, other than prizes, that are incurred in conducting bingo or instant bingo, the name of each person to whom the expenses are paid, and a receipt for all of the expenses;

- (3) A list of all prizes awarded during each bingo session, each raffle, each punch board game, and each game of chance conducted by the charitable organization, the total prizes awarded from each game of instant bingo by serial number, and the name, address, and social security number of all persons who are winners of prizes of six hundred dollars (\$600.00) or more in value:
- (4) An itemized list of the recipients of the net profit of the bingo or game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the net profit of bingo, or the money or assets received from a game of chance, for any charitable or other purpose set forth in Section 517.01(v), Section 517.02(d), or Ohio R.C. 2915.101, a list of each purpose and an itemized list of each expenditure for each purpose;

- (5) The number of persons who participate in any bingo session or game of chance that is conducted by the charitable organization;
- (6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from "gross receipts" Section 517.01(t);
- (7) An itemized list of all expenses incurred at each bingo session, each raffle, each punch board game, or each game of instant bingo conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses.
- (b) A charitable organization shall keep the records that it is required to maintain pursuant to subsection (a) of this section at its principal place of business in this State or at its headquarters in this State and shall notify the Attorney General of the location at which those records are kept.
- (c) The gross profit from each bingo session or game described in Section 517.01(o)(1) or (2) shall be deposited into a checking account devoted exclusively to the bingo session or game. Payments for allowable expenses incurred in conducting the bingo session or game and payments to recipients of some or all of the net profit of the bingo session or game shall be made only by checks or electronic fund transfers drawn on the bingo session or game account.
- (d) Each charitable organization shall conduct and record an inventory of all of its bingo supplies as of the first day of November of each year.
- (e) The Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that establish standards of accounting, record keeping, and reporting to ensure that gross receipts from bingo or games of chance are properly accounted for.
- (f) A distributor shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing to another person bingo supplies for use in this State. The record shall include all of the following for each instance:
 - (1) The name of the manufacturer from which the distributor purchased the bingo supplies and the date of the purchase;
 - The name and address of the charitable organization or other distributor to which the bingo supplies were sold or otherwise provided;
 - (3) A description that clearly identifies the bingo supplies;
 - Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each charitable organization.
- (g) A manufacturer shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in this State. The record shall include all of the following for each instance:
 - (1) The name and address of the distributor to whom the bingo supplies were sold or otherwise provided;
 - (2) A description that clearly identifies the bingo supplies, including serial numbers:
 - (3) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each distributor.

- (h) The Attorney General, or any law enforcement agency, may do all of the following:
 - (1) Investigate any charitable organization or any officer, agent, trustee, member, or employee of the organization;
 - (2) Examine the accounts and records of the organization;
 - (3) Conduct inspections, audits, and observations of bingo or games of chance;
 - (4) Conduct inspections of the premises where bingo or games of chance are conducted:
 - (5) Take any other necessary and reasonable action to determine if a violation of any provision of this chapter has occurred and to determine whether Section 517.12 has been complied with.

If any law enforcement agency has reasonable grounds to believe that a charitable organization or an officer, agent, trustee, member, or employee of the organization has violated any provision of this chapter, the law enforcement agency may proceed by action in the proper court to enforce this chapter, provided that the law enforcement agency shall give written notice to the Attorney General when commencing an action as described in this subsection.

- (i) No person shall destroy, alter, conceal, withhold, or deny access to any accounts or records of a charitable organization that have been requested for examination, or obstruct, impede, or interfere with any inspection, audit, or observation of bingo or a game of chance or premises where bingo or a game of chance is conducted, or refuse to comply with any reasonable request of, or obstruct, impede, or interfere with any other reasonable action undertaken by, the Attorney General or a law enforcement agency pursuant to subsection (h) of this section.
- (j) Whoever violates subsection (a) or (i) of this section is guilty of a misdemeanor of the first degree. (ORC 2915.10)

517.12 BINGO OPERATOR PROHIBITIONS.

- (a) No person shall be a bingo game operator unless he is eighteen years of age or older.
- (b) No person who has been convicted of a felony or a gambling offense in any jurisdiction shall be a bingo game operator.
- (c) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the third degree.
- (d) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree. (ORC 2915.11)

517.13 BINGO EXCEPTIONS.

- (a) Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter do not apply to bingo games that are conducted for the purpose of amusement only. A bingo game is conducted for the purpose of amusement only if it complies with all of the requirements specified in either subsection (a)(1) or (2) hereof:
 - (1) A. The participants do not pay any money or any other thing of value including an admission fee, or any fee for bingo cards, sheets, objects to cover the spaces or other devices used in playing bingo, for the privilege of participating in the bingo game or to defray any costs of the game, or pay tips or make donations during or immediately before or after the bingo game.

- B. All prizes awarded during the course of the game are nonmonetary, and in the form of merchandise, goods or entitlements to goods or services only, and the total value of all prizes awarded during the game is less than one hundred dollars (\$100.00).
- C. No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.
- D. The bingo game is not conducted either during or within ten hours of any of the following:
 - 1. A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter;
 - 2. A scheme or game of chance or bingo described in Section 517.01(o)(2).
- E. The number of players participating in the bingo game does not exceed fifty.
- (2) A. The participants do not pay money or any other thing of value as an admission fee, and no participant is charged more than twenty-five cents (25¢) to purchase a bingo card or sheet, objects to cover the spaces or other devices used in playing bingo.
 - B. The total amount of money paid by all of the participants for bingo cards or sheets, objects to cover the spaces or other devices used in playing bingo does not exceed one hundred dollars (\$100.00).
 - C. All of the money paid for bingo cards or sheets, objects to cover spaces or other devices used in playing bingo is used only to pay winners monetary and nonmonetary prizes and to provide refreshments.
 - D. The total value of all prizes awarded during the game does not exceed one hundred dollars (\$100.00).
 - E. No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.
 - F. The bingo game is not conducted during or within ten hours of either of the following:
 - 1. A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter;
 - 2. A scheme of chance or game of chance or bingo described in Section 517.01(o)(2).
 - G. All of the participants reside at the premises where the bingo game is conducted.
 - H. The bingo games are conducted on different days of the week and not more than twice in a calendar week.

(b) The Attorney General, or any local law enforcement agency, may investigate the conduct of a bingo game that purportedly is conducted for purposes of amusement only if there is reason to believe that the purported amusement bingo game does not comply with subsection (a) hereof. A local law enforcement agency may proceed by action in the proper court to enforce this section if the local law enforcement agency gives written notice to the Attorney General when commencing the action. (ORC 2915.12)

517.14 INSTANT BINGO CONDUCT BY A VETERAN'S OR FRATERNAL ORGANIZATION.

(a) A veteran's organization, a fraternal organization, or a sporting organization authorized to conduct a bingo session pursuant to Ohio R.C. 2915.01 to 2915.12 may conduct instant bingo other than at a bingo session if all of the following apply:

(1) The veteran's organization, fraternal organization or sporting organization limits the sale of instant bingo to twelve hours during any day, provided that the sale does not begin earlier than ten a.m. and ends not later than two a m

(2) The veteran's organization, fraternal organization or a sporting organization limits the sale of instant bingo to its own premises and to its own members and invited guests.

- (3) The veteran's organization, fraternal organization, or sporting organization is raising money for an organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this State and executes a written contract with that organization as required in subsection (b) of this section.
- If a veteran's organization, fraternal organization, or sporting organization authorized to conduct instant bingo pursuant to subsection (a) of this section is raising money for another organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this State, the veteran's organization, fraternal organization, or sporting organization shall execute a written contract with the organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this State in order to conduct instant bingo. That contract shall include a statement of the percentage of the net proceeds that the veteran's, fraternal or sporting organization will be distributing to the organization that is described in subsection 509(a)(1), 509(a)(2) or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this State.

- (c) (1) If a veteran's organization, fraternal organization or a sporting organization authorized to conduct instant bingo pursuant to subsection (a) of this section has been issued a liquor permit under Ohio R.C. Chapter 4303, that permit may be subject to suspension, revocation, or cancellation if the veteran's organization, fraternal organization, or a sporting organization violates a provision of this chapter or Ohio R.C. Chapter 2915.
 - (2) No veteran's organization, fraternal organization, or a sporting organization that enters into a written contract pursuant to subsection (b) of this section shall violate any provision of this chapter or Ohio R.C. Chapter 2915, or permit, aid, or abet any other person in violating any provision of this chapter or Ohio R.C. Chapter 2915.
- (d) A veteran's organization, fraternal organization, or a sporting organization shall give all required proceeds earned from the conduct of instant bingo to the organization with which the veteran's organization, fraternal organization, or a sporting organization has entered into a written contract.
- (e) Whoever violates this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law. (ORC 2915.13)

517.15 SKILL-BASED AMUSEMENT MACHINES.

- (a) No person shall give to another person any item described in Section 517.01(vv)(1), (2), (3), or (4) in exchange for a noncash prize, toy, or novelty received as a reward for playing or operating a skill-based amusement machine or for a free or reduced-prize game won on a skill-based amusement machine.
 - (2) Whoever violates subsection (a)(1) of this section is guilty of skill-based amusement machine prohibited conduct. Except as provided herein, a violation of subsection (a)(1) is a misdemeanor of the first degree for each redemption of a prize that is involved in the violation. If the offender previously has been convicted of a violation of subsection (a)(1), a violation of subsection (a)(1) is a felony and shall be prosecuted under appropriate State law.

 (ORC 2915.06)
- (b) Any regulation of skill-based amusement machines shall be governed by this chapter and Ohio R.C. Chapter 2915 and not by Ohio R.C. Chapter 1345. (ORC 2915.061)

517.99 PENALTY.

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

CHAPTER 519 Fire Damaged Structures: Removal or Repair Securing Funds

519.01 Compliance with state law in payment of claims.

519.02 Permits required; public nuisance declared when reconstruction or demolition is not completed.

CROSS REFERENCES Ohio Fire Code - see FIRE PREV. Ch. 1501

519.01 COMPLIANCE WITH STATE LAW IN PAYMENT OF CLAIMS.

The City hereby authorizes the procedures described in Ohio R.C. 3929.86 (C) and (D) to be implemented whereby no insurance company doing business in the State shall pay a claim of a named insured for fire damage to a structure located within the City unless the applicable provisions of Ohio R.C. 3929.86 are fully complied with. The City Administrator, or his designee, is hereby designated as the officer authorized to carry out the duties of Ohio R.C. 3929.86. The Clerk of Council shall file a certified copy of this section with the State Superintendent of Insurance. (Ord. 2010-3972. Passed 6-21-10.)

519.02 PERMITS REQUIRED; PUBLIC NUISANCE DECLARED WHEN RECONSTRUCTION OR DEMOLITION IS NOT COMPLETED.

- (a) Owners of structures damaged by fire shall apply within 6 months of the closing of the Fire Marshal's investigation of the incident, for either:
 - (1) For a zoning permit to reconstruct the property, or
 - (2) For a demolition permit.
- (b) In the event reconstruction or repair is to occur, zoning permits will expire in 12 months if no work has commenced, or if work is not completed within 30 months, as provided for in Section 1209.08 of the Zoning Code.
- (c) In the event of expiration of the zoning permit as provided for in subsection (b) hereof, the City Council may declare the site a public nuisance and utilize the proceeds of the escrow account and proceed to complete the demolition and clearance work and abating any nuisance remaining on the property. (Ord. 2010-3972. Passed 6-21-10.)

CHAPTER 521 Health, Safety and Sanitation

521.01	Abandoned refrigerators and	521.09	Noxious or offensive odors.
	airtight containers.	521.10	Nonsmoking areas in places
521.02	Venting of heaters and burners.		of public assembly.
521.03	Barricades and warning lights;	521.11	Weeds and other nuisances.
	abandoned excavations.	521.12	Junk yard and collection
521.04	Sidewalk obstructions; damage		center prohibited.
	or injury.	521.13	Obstruction of watercourses.
521.05	Notice to fill lots, remove	521.14	Burial of the body of any
	putrid substances.		person within the City.
521.06	Duty to keep sidewalks in	521.15	Allowing debris to remain on
	repair and clean.		land.
521.07	Fences.	521.16	Burial of indigent persons.
521.08	Littering and deposit of garbage,	521.17	Outdoor furniture, fixtures
	rubbish, junk, etc.		and household goods.
*		521.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law Flagpole installation in sidewalk - see Ohio R.C. 723.012 Excavation liability - see Ohio R.C. 723.49 et seq. Removal of noxious weeds or litter - see Ohio R.C. 731.51 et seq. Nuisances - see Ohio R.C. Ch. 3767 Tampering with safety devices - see GEN. OFF. 541.04

521.01 ABANDONED REFRIGERATORS AND AIRTIGHT CONTAINERS.

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

521.02 VENTING OF HEATERS AND BURNERS.

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

- (1) When used in living quarters, or in any enclosed building or space in which persons are usually present, shall be used with a flue or vent so designed, installed and maintained as to vent the products of combustion outdoors; except in storage, factory or industrial buildings which are provided with sufficient ventilation to avoid the danger of carbon monoxide poisoning;
- When used as a portable or temporary burner or heater at a construction site, or in a warehouse, shed or structure in which persons are temporarily present, shall be vented as provided in subsection (a) hereof, or used with sufficient ventilation to avoid the danger of carbon monoxide poisoning.
- (b) This section does not apply to domestic ranges, laundry stoves, gas logs installed in a fireplace with an adequate flue, or hot plates, unless the same are used as space or room heaters.
- (c) No person shall negligently use, or, being the owner, person in charge, or occupant of premises, negligently permit the use of a burner or heater in violation of the standards for venting and ventilation provided in this section.
- (d) Subsection (a) hereof does not apply to any kerosene-fired space or room heater that is equipped with an automatic extinguishing tip-over device, or to any natural gas-fired or liquid petroleum gas-fired space or room heater that is equipped with an oxygen depletion safety shutoff system, and that has its fuel piped from a source outside of the building in which it is located, that are approved by an authoritative source recognized by the State Fire Marshal in the State Fire Code adopted by him under Ohio R.C. 3737.82.
- (e) The State Fire Marshal may make rules to ensure the safe use of unvented kerosene, natural gas or liquid petroleum gas heaters exempted from subsection (a) hereof when used in assembly buildings, business buildings, high hazard buildings, institutional buildings, mercantile buildings and type R-1 and R-2 residential buildings, as these groups of buildings are defined in rules adopted by the Board of Building Standards under Ohio R.C. 3781.10. No person shall negligently use, or, being the owner, person in charge or occupant of premises, negligently permit the use of a heater in violation of any rules adopted under this subsection.
- (f) The State Fire Marshal may make rules prescribing standards for written instructions containing ventilation requirements and warning of any potential fire hazards that may occur in using a kerosene, natural gas, or liquid petroleum gas heater. No person shall sell or offer for sale any kerosene, natural gas or liquid petroleum gas heater unless the manufacturer provides with the heater written instructions that comply with any rules adopted under this subsection.
- (g) No product labeled as a fuel additive for kerosene heaters and having a flash point below one hundred degrees fahrenheit or thirty-seven and eight-tenths degrees centigrade shall be sold, offered for sale or used in any kerosene space heater.

- (h) No device that prohibits any safety feature on a kerosene, natural gas or liquid petroleum gas space heater from operating shall be sold, offered for sale or used in connection with any kerosene, natural gas or liquid petroleum gas space heater.
- (i) No person shall sell or offer for sale any kerosene-fired, natural gas or liquid petroleum gas-fired heater that is not exempt from subsection (a) hereof unless it is marked conspicuously by the manufacturer on the container with the phrase "Not Approved For Home Use."
- (j) No person shall use a cabinet-type, liquid petroleum gas-fired heater having a fuel source within the heater, inside any building, except as permitted by the State Fire Marshal in the State Fire Code adopted by him under Ohio R.C. 3737.82. (ORC 3701.82)
- (k) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 3701.99(C))

521.03 BARRICADES AND WARNING LIGHTS; ABANDONED EXCAVATIONS.

- (a) No person shall abandon or knowingly permit to remain on public or private property, any excavation, well, cesspool or structure which is in the process of construction, reconstruction, repair or alteration unless the same is adequately protected by suitable barricades and guarded by warning devices or lights at night so that the condition will not reasonably prove dangerous to life or limb.
- (b) No person shall destroy, remove, damage or extinguish any barricade or warning light that is placed for the protection of the public so as to prevent injury to life or limb.
- (c) Any owner or agent in control of a premises upon which a basement, cellar, well or cistern has been abandoned due to demolition, failure to build or any other reason shall cause the same to be filled to the ground surface with rock, gravel, earth or other suitable material.
 - (d) Whoever violates this section is guilty of a minor misdemeanor.

521.04 SIDEWALK OBSTRUCTIONS; DAMAGE OR INJURY.

- (a) No person shall place or knowingly drop upon any part of a sidewalk, playground or other public place any tacks, bottles, wire, glass, nails or other articles which may damage property of another or injure any person or animal traveling along or upon such sidewalk or playground.
- (b) No person shall walk on, or allow any animal upon, or injure or deface in any way, any soft or newly laid sidewalk pavement.
- (c) No person shall place, deposit or maintain any merchandise, goods, material or equipment upon any sidewalk so as to obstruct pedestrian traffic thereon except for such reasonable time as may be actually necessary for the delivery or pickup of such articles. In no such case shall the obstruction remain on such sidewalk for more than one hour.

- (d) No person shall unload upon, or transport any heavy merchandise, goods, material or equipment over or across any sidewalk or curb without first placing some sufficient protection over the pavement to protect against damage or injury. The affected area shall be rendered safe and free from danger.
- (e) No person shall allow any cellar or trap door, coal chute or elevator or lift opening in any sidewalk to remain open without providing suitable safeguards to protect and warn pedestrian traffic of the dangerous condition.
 - (f) Whoever violates this section is guilty of a minor misdemeanor.

521.05 NOTICE TO FILL LOTS, REMOVE PUTRID SUBSTANCES.

(a) No person shall fail to comply with the following requirements within the lawful time after service or publication of the notice or resolution is made as required by law:

To fill or drain any lot or land or remove all putrid substances therefrom, or remove all obstructions from culverts, covered drains or natural watercourses as provided in Ohio R.C. 715.47.

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

521.06 DUTY TO KEEP SIDEWALKS IN REPAIR AND CLEAN.

- (a) No owner or occupant of abutting lands shall fail to keep the sidewalks, curbs or gutters in repair and free from snow, ice or any nuisance. (ORC 723.011)
 - (b) Whoever violates this section is guilty of a minor misdemeanor.

521.07 FENCES.

- (a) No person shall erect or maintain any fence charged with electrical current.
- (b) No person shall erect or maintain a barbed wire fence which abuts or is adjacent to any public street or sidewalk. This subsection (b) does not prevent the placement and use of not more than three strands of barbed wire on top of a fence other than a barbed wire fence, provided such strands are not less than seventy-two inches from the ground.
 - (c) Whoever violates this section is guilty of a minor misdemeanor.

521.08 LITTERING AND DEPOSIT OF GARBAGE, RUBBISH, JUNK, ETC.

- (a) No person, regardless of intent, shall deposit litter or cause litter to be deposited on any public property, on private property not owned by him, or in or on waters of the State, or Municipality, unless one of the following applies:
 - (1) The person is directed to do so by a public official as part of a litter collection drive;
 - (2) Except as provided in subsection (b) hereof, the person deposits the litter in a litter receptacle in a manner that prevents its being carried away by the elements:
 - (3) The person is issued a permit or license covering the litter pursuant to Ohio R. C. Chapter 3734 or 6111.

- (b) No person, without privilege to do so, shall knowingly deposit litter, or cause it to be deposited, in a litter receptacle located on any public property or on any private property not owned by 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) 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.
 - 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.
 - "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.

- For the purpose of separating persons who smoke from persons who do not smoke for the comfort and health of persons not smoking, in every place of public assembly there shall be an area where smoking is not permitted, which shall be designated a no smoking area. Provided that, no more than one-half of the rooms in any health care facility in which persons are confined as a matter of health care may be designated as smoking areas in their entirety. The designation shall be made before the place of public assembly is made available to the public. In places included in subsection (a)(1) hereof the local fire authority having jurisdiction shall designate no smoking area. In places included in subsection (a)(2) hereof that are owned by the Municipality, Council shall designate an officer who shall designate the area. In places included in subsection (a)(3) hereof, the person having control of the operations of the place of public assembly shall designate the no smoking area. In places included in subsection (a)($\overline{2}$) hereof which are also included in subsection (a)(1) hereof, the officer who has authority to designate the area in places in subsection (a)(2) hereof shall designate the no smoking area. A no smoking area may include the entire place of public assembly. Designations shall be made by the placement of signs that are clearly visible and that state "NO SMOKING". No person shall remove signs from areas designated as no smoking areas.
- (c) This section does not affect or modify the prohibition contained in Ohio R.C. 3313.751(B).
- (d) No person shall smoke in any area designated as a no smoking area in accordance with subsection (b) hereof or Ohio R.C. 3791.031.
- (e) Whoever violates this section is guilty of a minor misdemeanor. (ORC 3791.031)

521.11 WEEDS AND OTHER NUISANCES.

- (a) Any person and/or entity owning or having charge of any lot, parcel or land of one and one-half (1.5) acres or less and all commercially zoned lots, lots zoned R-M- Multi-Family Residential, lots zoned R-MH- Manufactured Home Residential, and lots located within a platted subdivision other than woodland areas, conservation and/or agricultural easements, CAUV and/or agricultural preservation districts as set forth in the Ohio Revised Code, subdivision reserves designated to remain in a natural state or for agricultural use, within the Municipality shall, in the absence of an exemption granted by the City Administrator upon written application and for good cause shown, shall be required to control all weeds, grasses and vegetation, except trees, shrubs, acceptable flowers and farms crops, by cutting or other effective legal means of control as is necessary to keep the growth of such weeds, grasses and vegetation under eight inches high.
- (b) The Zoning Inspector is authorized to determine on what lots and lands in the Municipality, weeds, grasses and vegetation are being permitted to grow, spread, mature or seed and declare the same as constituting a nuisance or endangering public health. After determination has been made that such weeds, grasses and vegetation constitutes a nuisance or endanger the public health, it shall be the duty of the Zoning Inspector to see that they are removed or such nuisance abated.
 - (1) A separate offense shall be deemed committed each day during or on which the offense occurs or continues
 - Whoever fails to comply with the orders of the Zoning Inspector with respect to these provisions is guilty of a minor misdemeanor.

- (c) The Zoning Inspector shall cause written notice to be served upon the owners or lessees or agents or tenants having charge of such lots and lands referred to in subsection (b) hereof, notifying them that weeds, grasses and vegetation growing eight inches or more in height are growing on such lots and lands and that they must be cut or destroyed within 10 days after the service of such notice.
 - (1) Notice shall be posted to the violating property giving 10 days to correct the violation. If the address of the owner or person having charge of such lands is known, the Zoning Inspector must send a copy of the notice to said address by regular U.S. mail giving 10 days to correct the violation. For purposes of this section, service of the notice is complete upon such mailing.
 - (2) Notice shall be posted to the violating property giving 10 days to correct the violation. If the address of the owner or person having charge of such lands is unknown, the Zoning Inspector must publish notice in a newspaper of general circulation or by electronic means. After completion of such notice, the Director of Planning and Zoning shall make due return thereon setting for the cost of service.
- (d) Upon failure of any owner, lessee, agent or tenant having charge of the lots and lands under the provisions of subsections (b) and (c) hereof to comply with the notice within the period of time stipulated under the provisions of subsection (c) hereof, the Zoning Inspector shall cause such weeds to be cut or destroyed by the direct employment of labor or authorize some person to cut the weeds on behalf of the Municipality.
- (e) Upon the performance of the labor, under the provisions of subsection (d) hereof, the Zoning Inspector shall report to Council the costs thereof with respect to each lot or parcel of land, including the cost of investigation, handling of weed complaints and cost of service and notification. The total cost to be reported to Council shall be the actual cost incurred for the work performed (per incident) plus an additional administrative cost of either two hundred dollars (\$200.00) or twenty percent (20%) of the actual cost incurred for the work performed rounded up to the next whole dollar, whichever is greater.
- (f) Upon receipt of the report, under the provIsions of subsection (e) hereof, and approval thereof by Council, the Clerk of Council shall make a return in writing to the Auditor of Licking County of such charges which shall be entered upon the tax duplicate of Licking County, all in accordance with Ohio R.C. 731.54.
- (g) In addition to the procedures set forth above in subsections (d), (e) and (f), whoever violates any provision of this Section or fails to comply with any of its requirements, including violation of conditions and safeguards established in various sections of this Code or fails to comply with any of its requirements shall be guilty of a minor misdemeanor per violation. Each day a violation continues shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense, and suffer the penalties herein provided. Nothing herein contained shall prevent the City of Pataskala from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 2019-4332. Passed 3-18-19.)

521.12 JUNK YARD AND COLLECTION CENTER PROHIBITED.

(a) No junk yard, trash or waste paper, metal or junk collection center shall be maintained within the corporation limits of the City unless otherwise provided by law.

- (b) No junk, drums, crates, wood, boxes, papers, trash, plastic, metal, motor vehicle parts, tires, manufacturing waste or by-products so as to create an unsightly condition or to create a nuisance or create a harbor for rats or rodents or insects or create a health hazard to the community shall be maintained.
- (c) Any such material stored for regular collection shall be kept in a secure container manufactured for that purpose and stored only until the next collection day's service, such collection shall be weekly.
 - (d) Whenever the property maintenance official determines that there has been a violation of Section 521.12, or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed to the person responsible for the violation as specified:

(2) Notice shall be in accordance with all of the following:

A. Be in written form.

- B. Include the address or a description of the real estate sufficient for identification.
- C. Include a statement of the violation or violations and why the notice is being issued.
- D. Include a correction order that the person having the right of possession shall remove from the property said waste, trash, junk, crates, wood, discarded material, refuse, boxes, papers, plastic, metal, motor vehicle parts, tires, manufacturing waste or byproducts construction waste or byproducts, and any otherwise to bring the property into compliance with the provisions of Section 521.12 within ten days of receipt of notice.
- E. Inform the property owner of the right to appeal.

F. Notice shall be posted on the property immediately.

- G. Notice shall be mailed by First Class Mail to the occupant and the owner of record (if a different address) and to any mortgage company holding a mortgage lien on the property. Certified mail, return receipt mail, UPS or other method of documenting delivery shall also be sent to the owner of record.
- (e) No person having the right of possession of said property shall fail to comply within ten days after receipt of notice as provided in this section. Such failure of compliance is primafacie evidence of willful failure to comply with the notice and each day of failure to comply shall constitute a separate offense.
- (f) Whoever violates this section is guilty of a minor misdemeanor on the first offense; on a second offense such person is guilty of a misdemeanor of the fourth degree; on each subsequent offense, such person is guilty of a misdemeanor of the third degree. (Ord. 2008-3853. Passed 6-2-08.)

521.13 OBSTRUCTION OF WATERCOURSES.

- (a) It is determined and declared to be a nuisance against the public peace, health, and general welfare of the Municipality, to maintain, permit, or employ any or all of the following conditions:
 - (1) To obstruct in any manner whatsoever any culvert, drain, natural watercourse, creek, brook, or branch thereof.
 - (2) To obstruct the natural flow of water, causing it to flow back or become stagnant, in a way prejudicial to the health, comfort or convenience of any of the citizens of the Municipality.

- (b) It shall be the duty of the Office of the City Administrator, acting through its properly authorized employees, when it is deemed necessary, in order to secure or preserve the public health, safety, and welfare, of any watercourse, creek, brook, or branch thereof flowing within the Municipality, to ascertain whether any nuisance exists as described in subsection (a) hereof and to inspect bed and banks of said watercourse, creek, brook, or branch thereof for such purposes.
- (c) When the Office of the City Administrator acting through its properly authorized employees, after inspection of the premises under the provisions of subsection (b) hereof, has determined that an obstruction exists within or on a watercourse, brook, stream, or branch thereof flowing within the Municipality, and that said obstruction is such that it causes the waters flowing therein to become stagnant, to flow back, or to flow in a way prejudicial to the health, comfort, and convenience of the citizens of the Municipality, the Office of the City Administrator shall serve a written notice upon the owner and agent, lessee, occupant, tenant or other person in charge of such premises abutting or contiguous to said obstruction, to correct or remove the nuisance or objection therein named. (Ord. 79-903. Passed 12-17-79.)

521.14 BURIAL OF THE BODY OF ANY PERSON WITHIN THE CITY.

- (a) The body of a person whose death has occurred shall not be buried, interred, or deposited in a vault or tomb, within the City, except in an existing and lawful cemetery.
- (b) Whoever violates this section is guilty of the unlawful burial of a body within the City, a misdemeanor of the fourth degree. The body of any person that was buried in violation of this section shall immediately be moved to an existing and lawful cemetery by a person who has violated this section. (Ord. 2003-3489. Passed 6-16-03.)

521.15 ALLOWING DEBRIS TO REMAIN ON LAND.

- (a) No person shall cause, permit or allow vacant lots or vacant land to be used for the dumping of trash, debris, or soil or dirt except for clean fill dirt.
- (b) No person shall cause, permit or allow vacant lots or vacant land to be used for the depositing of clean fill dirt for a period of longer than two months, when any of the following have occurred:
 - (1) Dirt, soil or trash has blown from the lots or land onto streets, roads, or highways, or onto adjacent properties;
 - When continual access to the lots or lands for such purpose has damaged public highways, streets or roads:
 - When the owner of such lots or land does not control the debris and other materials that are deposited on the lots or land, and materials other than clean fill dirt have been deposited thereon.
- (c) This provision shall not apply to debris resulting from agricultural uses allowed in an Agricultural District as set forth in Chapter 1225 of the Zoning Code.
- (d) Whoever violates this section is guilty of a minor misdemeanor. (Ord. 2003-3504. Passed 10-6-03.)

521.16 BURIAL OF INDIGENT PERSONS.

The City shall require the following prior to any payment of indigent burial funds:

- (a) <u>Funeral Director Statement</u>. Any funeral director burying the dead body of any person required by any statute of the State to be buried at the expense of the City, shall submit to the Finance Director a statement under oath of the amount of any contributions received from friends, relatives or others, of insurance of property, real or personal, or of any other thing of value, which may be applied to the burial expense of such person, or of the absence of any such things of value which may be so applied, and containing an itemized statement of the burial expenses of such person.
- (b) Payment of Expenses. Upon the submission of such statement under oath to the Finance Director, and its approval by the Finance Director as a satisfactory compliance with the requirement of this chapter, there shall be paid to such a funeral director for the burial of such person not to exceed seven hundred fifty dollars (\$750.00). This maximum amount shall include the cemetery charges and the crematory charges, less the amount of any such things of value under which may be applied to such funeral expense as shown by the required statement under oath. (Ord. 2010-3984. Passed 8-2-10.)

521.17 OUTDOOR FURNITURE, FIXTURES AND HOUSEHOLD GOODS.

- (a) Appliances: It is a violation of this section for any landowner or person leasing, occupying or having control of real property to abandon or otherwise leave unattended outside, for more than 48 hours, unless good cause is shown, outside of any structure meeting the definition of principal structure, any structure intended for habitation or any other buildings or structures appurtenant thereto, or any appliance normally understood to be designed for intended for use within such structures or buildings, including but not limited to any refrigerator, icebox, washing machine, dishwasher, kitchen range, clothes dryer, freezer, commode, urinal, bathroom sink, kitchen sink, or other large appliance, bathroom fixture, kitchen fixture, or similar container outside of buildings unless such items are designed for outdoor use.
- (b) <u>Household Furniture</u>, <u>Standards</u>: It shall be a violation of this section for any landowner or person leasing, occupying, or having control of any real property to keep, maintain, deposit, or perform or permit on such property the outdoor use, outdoor storage or outdoor placement of household appliances, household furniture, or household furnishings, unless such items are designed for outdoor use and are used on the premises for purposes of the landowner or person leasing, occupying or having control of the real property.
- (c) For purposes of this section, "outdoor" includes any area such as porches, patios, decks, balconies, yards and driveways. A "porch" is defined as a platform attached to or abutting against a building whether covered by a roof or open and including porches located at the entrance to a building or on the side or rear thereof. "Screens" are framed wire mesh or framed plastic mesh used to keep out insects and permit airflow
- (d) The use of household upholstered furniture on a porch is not prohibited by this section if the porch is completely enclosed by fully intact walls with glass or fully intact screens.
- (e) Whoever violates this section is guilty of a minor misdemeanor. (Ord. 2011-4031. Passed 9-6-11.)

521.99 PENALTY.

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

CHAPTER 525 Law Enforcement and Public Office

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	officer.		Interfering with civil rights.
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525.05	Failure to report a crime,		law enforcement emblems
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525.07	Obstructing official		Failure to answer summons
	business.	0_0,	or subpoena.
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CROSS REFERENCES

See sectional histories for similar State law Law enforcement officer defined - see GEN. OFF. 501.01(k) Misconduct at an emergency - see GEN. OFF. 509.05 Making false alarms - see GEN. OFF. 509.07 Personating an officer to defraud - see GEN. OFF. 545.16

525.01 DEFINITIONS.

As used in this chapter:

- (a) "Public official" means any elected or appointed officer, or employee, or agent of the State or any political subdivision thereof, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges and law enforcement officers. "Public official" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.
- (b) "Public servant" means any of the following:
 - (1) Any public official;
 - Any person performing ad hoc a governmental function, including, but not limited to, a juror, member of a temporary commission, master, arbitrator, advisor or consultant;

- (3) A person who is a candidate for public office, whether or not the person is elected or appointed to the office for which the person is a candidate. A person is a candidate for purposes of this subsection if the person has been nominated according to law for election or appointment to public office, or if the person has filed a petition or petitions as required by law to have the person's name placed on the ballot in a primary, general or special election, or if the person campaigns as a write-in candidate in any primary, general or special election. "Public servant" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.
- (c) "Party official" means any person who holds an elective or appointive post in a political party in the United States or this State, by virtue of which the person directs, conducts or participates in directing or conducting party affairs at any level of responsibility.
- (d) "Official proceeding" means any proceeding before a legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, and includes any proceeding before a referee, hearing examiner, commissioner, notary or other person taking testimony or a deposition in connection with an official proceeding.
- "Detention" means arrest, confinement in any vehicle subsequent to an arrest, (e) confinement in any public or private facility for custody of persons charged with or convicted of a crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States; hospitalization, institutionalization or confinement in any public or private facility that is ordered pursuant to or under the authority of Ohio R.C. 2945.37, 2945.371, 2945.38, 2945.39 or 2945.40, 2945.401 or 2945.402; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation, except as provided in this subsection, supervision by any employee of any facility of any of those natures; that is incidental to hospitalization, institutionalization or confinement in the facility but that occurs outside the facility; supervision by an employee of the Department of Rehabilitation and Correction of a person on any type of release from a State correctional institution; or confinement in any vehicle, airplane, or place while being returned from outside of this State into this State by a private person or entity pursuant to a contract entered into under Ohio R.C. 311.29(E) or Ohio R.C. 5149.03(B). For a person confined in a county jail who participates in a county jail industry program pursuant to Ohio R.C. 5147.30, "detention" includes time spent at an assigned work site and going to and from the work site.

- (f) "Detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States.
- "Valuable thing or valuable benefit" includes, but is not limited to, a contribution. This inclusion does not indicate or imply that a contribution was not included in those terms before September 17, 1986.
- (h) "Campaign committee," "contribution," "political action committee," "legislative campaign fund," "political party" and "political contributing entity" have the same meanings as in Ohio R.C. 3517.01.
- (i) "Provider agreement" has the same meaning as in Ohio R.C. 5164.01. (ORC 2921.01)

525.02 FALSIFICATION.

- (a) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:
 - (1) The statement is made in any official proceeding.
 - (2) The statement is made with purpose to incriminate another.
 - (3) The statement is made with purpose to mislead a public official in performing the public official's official function.
 - (4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention and contingency benefits and services; disability financial assistance; retirement benefits or health care coverage from a state retirement system; economic development assistance as defined in Ohio R.C. 9.66; or other benefits administered by a governmental agency or paid out of a public treasury.
 - (5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release or provider agreement.
 - (6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.
 - (7) The statement is in writing on or in connection with a report or return that is required or authorized by law.
 - (8) The statement is in writing, and is made with purpose to induce another to extend credit to or employ the offender, or to confer any degree, diploma, certificate of attainment, award of excellence or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to that person's detriment.
 - (9) The statement is made with purpose to commit or facilitate the commission of a theft offense.
 - (10) The statement is knowingly made to a probate court in connection with any action, proceeding or other matter within its jurisdiction, either orally or in a written document, including, but not limited to, an application, petition, complaint or other pleading, or an inventory, account or report.
 - The statement is made on an account, form, record, stamp, label or other writing that is required by law.
 - (12) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the Secretary of State, a county recorder, or the clerk of a court of record.

- (13) The statement is required under Ohio R.C. 5743.71 in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.
- (b) It is no defense to a charge under subsection (a)(6) hereof that the oath or affirmation was administered or taken in an irregular manner.
- (c) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false, but only that one or the other was false.
 - (d) Whoever violates any provision of subsection (a)(1) to (8) or (10) to (13) hereof is guilty of falsification, a misdemeanor of the first degree.
 - Whoever violates subsection (a)(9) hereof is guilty of falsification in a theft offense, a misdemeanor of the first degree. If the value of the property or services stolen is one thousand dollars (\$1,000) or more, falsification in a theft offense is a felony and shall be prosecuted under appropriate State law.
- (e) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this section. A civil action under this section is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section. (ORC 2921.13)

525.03 IMPERSONATION OF PEACE OFFICER.

- (a) As used in this section:
 - (1)"Peace officer" means a sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation or township constable who is employed by a political subdivision of this State; a member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D); a member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y), a State university law enforcement officer appointed under Ohio R.C. 3345.04; a veterans' home police officer appointed under Ohio R.C. 5907.02; a special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28; an officer, agent, or employee of the State or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within limits of that statutory duty and authority; or a State highway patrol trooper whose primary duties are to preserve the peace, to protect life and property and to enforce the laws, ordinances or rules of the State or any of its political subdivisions.
 - "Private police officer" means any security guard, special police officer, private detective or other person who is privately employed in a police capacity.
 - "Federal law enforcement officer" means an employee of the United States who serves in a position the duties of which are primarily the investigation, apprehension or detention of individuals suspected or convicted of offenses under the criminal laws of the United States.

- "Investigator of the Bureau of Criminal Identification and Investigation" has the same meaning as in Ohio R.C. 2903.11.
- (5) "Impersonate" means to act the part of, assume the identity of, wear the uniform or any part of the uniform of or display the identification of a particular person or of a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons.
- (b) No person shall impersonate a peace officer, private police officer, federal law enforcement officer or investigator of the Bureau of Criminal Identification and Investigation.
- (c) No person, by impersonating a peace officer, private police officer, federal law enforcement officer, or investigator of the Bureau of Criminal Identification and Investigation, shall arrest or detain any person, search any person or search the property of any person.
- (d) No person, with purpose to commit or facilitate the commission of an offense, shall impersonate a peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the State or the Municipality or investigator of the Bureau of Criminal Identification and Investigation.
- (e) It is an affirmative defense to a charge under subsection (b) hereof that the impersonation of the peace officer was for a lawful purpose.
- (f) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree. Whoever violates subsections (c) or (d) hereof is guilty of a misdemeanor of the first degree. If the purpose of a violation of subsection (d) hereof is to commit or facilitate the commission of a felony, such violation is a felony and shall be prosecuted under appropriate State law. (ORC 2921.51)

525.04 COMPOUNDING A CRIME.

- (a) No person shall knowingly demand, accept or agree to accept anything of value in consideration of abandoning or agreeing to abandon a pending criminal prosecution.
- (b) It is an affirmative defense to a charge under this section when both of the following apply:
 - (1) The pending prosecution involved is for violation of Sections 545.05, 545.07, 545.09 or 545.10(b)(2), or Ohio R.C. 2913.02, 2913.11, 2913.21(B)(2) or 2913.47, of which the actor under this section was the victim.
 - (2) The thing of value demanded, accepted or agreed to be accepted, in consideration of abandoning or agreeing to abandon the prosecution, did not exceed an amount that the actor reasonably believed due him as restitution for the loss caused him by the offense.
- (c) When a prosecuting witness abandons or agrees to abandon a prosecution under subsection (b) hereof, the abandonment or agreement in no way binds the State or Municipality to abandoning the prosecution.

(d) Whoever violates this section is guilty of compounding a crime, a misdemeanor of the first degree. (ORC 2921.21)

525.05 FAILURE TO REPORT A CRIME, INJURY OR KNOWLEDGE OF DEATH.

- (a) (1) Except as provided in subsection (a)(2) hereof, no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.
 - (2) No person, knowing that a violation of division (B) of Ohio R.C. 2913.04 has been, or is being committed or that the person has received information derived from such a violation, shall knowingly fail to report the violation to law enforcement authorities.
- (b) Except for conditions that are within the scope of subsection (e) of this section, no person giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or stab wound treated or observed by the person, or any serious physical harm to persons that the person knows or has reasonable cause to believe resulted from an offense of violence.
- (c) No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician or advanced practice registered nurse whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, an ambulance service, an emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained. For purposes of this subsection (c), "advanced practice registered nurse" does not include a certified registered nurse anesthetist.
- (d) No person shall fail to provide upon request of the person to whom a report required by subsection (c) of this section was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.
 - (e) (1) As used in this subsection, "burn injury" means any of the following:
 - A. Second or third degree burns;
 - B. Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air;
 - C. Any burn injury or wound that may result in death;
 - D. Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by Ohio R.C. 3743.01.
 - (2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has sustained a burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

- (3) No manager, superintendent or other person in charge of a hospital, sanitarium or other medical facility in which a person is attended or treated for any burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (4) No person who is required to report any burn injury under subsection (e)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the State Fire Marshal. The report shall comply with the uniform standard developed by the State Fire Marshal pursuant to Ohio R.C. 3737.22(A)(15).
- (5) Anyone participating in the making of reports under subsection (e) of this section or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding Ohio R.C. 4731.22, the physician-patient relationship or advanced practice registered nurse-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted under subsection (e) of this section.
- (f) Any doctor of medicine or osteopathic medicine, hospital intern or resident, nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in Ohio R.C. 3113.31, shall note that knowledge or belief and the basis for it in the patient's or client's records.
 - (2) Notwithstanding Ohio R.C. 4731.22, the physician-patient privilege or advanced practice registered nurse-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted under subsection (f)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.
- (g) Subsections (a) and (d) of this section do not require disclosure of information, when any of the following applies:
 - (1) The information is privileged by reason of the relationship between attorney and client; physician and patient; advanced practice registered nurse and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.

- (2) The information would tend to incriminate a member of the actor's immediate family.
- (3) Disclosure of the information would amount to revealing a news source, privileged under Ohio R.C. 2739.04 or 2739.12.
- (4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy.
- (5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or community addiction services provider whose alcohol and drug addiction services are certified pursuant to Ohio R.C. 5119.36.
- (6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of Ohio R.C. 2907.02 or 2907.05 or to victims of felonious sexual penetration in violation of former Ohio R.C. 2907.12. As used in this subsection, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide those services.
- (h) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.
- (i) Whoever violates subsection (a) or (b) of this section is guilty of failure to report a crime. Violation of subsection (a)(1) of this section is a misdemeanor of the fourth degree. Violation of subsection (a)(2) or (b) of this section is a misdemeanor of the second degree.
- (j) Whoever violates subsection (c) or (d) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.
 - (k) (1) Whoever negligently violates subsection (e) of this section is guilty of a minor misdemeanor.
 - Whoever knowingly violates subsection (e) of this section is guilty of a misdemeanor of the second degree.
- (1) As used in this section, "nurse" includes an advanced practice registered nurse, registered nurse, and licensed practical nurse. (ORC 2921.22)

525.06 FAILURE TO AID A LAW ENFORCEMENT OFFICER.

- (a) No person shall negligently fail or refuse to aid a law enforcement officer, when called upon for assistance in preventing or halting the commission of an offense, or in apprehending or detaining an offender, when such aid can be given without a substantial risk of physical harm to the person giving it.
- (b) Whoever violates this section is guilty of failure to aid a law enforcement officer, a minor misdemeanor. (ORC 2921.23)

525.07 OBSTRUCTING OFFICIAL BUSINESS.

- (a) No person, without privilege to do so and with purpose to prevent, obstruct or delay the performance by a public official of any authorized act within the public official's official capacity, shall do any act that hampers or impedes a public official in the performance of the public official's lawful duties.
- (b) Whoever violates this section is guilty of obstructing official business. Except as otherwise provided in this subsection (b), obstructing official business is a misdemeanor of the second degree. If a violation of this section creates a risk of physical harm to any person, obstructing official business is a felony and shall be prosecuted under appropriate State law. (ORC 2921.31)

525.08 OBSTRUCTING JUSTICE.

- (a) No person, with purpose to hinder the discovery, apprehension, prosecution, conviction, or punishment of another for a misdemeanor, or to assist another to benefit from the commission of a misdemeanor, and no person, with purpose to hinder the discovery, apprehension, prosecution, adjudication as a delinquent child, or disposition of a child for an act that if committed by an adult would be a misdemeanor or to assist a child to benefit from the commission of an act that if committed by an adult would be a misdemeanor, shall do any of the following:
 - (1) Harbor or conceal the other person or child;
 - Provide the other person or child with money, transportation, a weapon, a disguise, or other means of avoiding discovery or apprehension;
 - (3) Warn the other person or child of impending discovery or apprehension;
 - (4) Destroy or conceal physical evidence of the misdemeanor, or act, or induce any person to withhold testimony or information or to elude legal process summoning the person to testify or supply evidence;
 - (5) Communicate false information to any person.
 - Prevent or obstruct any person, by means of force, intimidation, or deception, from performing any act to aid in the discovery, apprehension, or prosecution of the other person or child.
- (b) A person may be prosecuted for, and may be convicted of or adjudicated a delinquent child for committing, a violation of subsection (a) hereof, regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed. The crime or act the person or child aided committed shall be used under subsection (c) hereof in determining the penalty for the violation of subsection (a) hereof, regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed.
 - (c) (1) Whoever violates this section is guilty of obstructing justice.
 - (2) If the crime committed by the person aided is a misdemeanor or if the act committed by the child aided would be a misdemeanor if committed by an adult, obstructing justice is a misdemeanor of the same degree as the misdemeanor committed by the person aided or a misdemeanor of the same degree that the act committed by the child aided would be if committed by an adult.
 - (d) As used in this section:
 - (1) "Adult" and "child" have the same meanings as in Ohio R.C. 2151.011.
 - (2) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02. (ORC 2921.32)

525.09 RESISTING ARREST.

- (a) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another.
- (b) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person and, during the course of or as a result of the resistance or interference, cause physical harm to a law enforcement officer.
- (c) Whoever violates this section is guilty of resisting arrest. A violation of subsection (a) hereof is a misdemeanor of the second degree. A violation of subsection (b) hereof is a misdemeanor of the first degree. (ORC 2921.33)

525.10 HAVING AN UNLAWFUL INTEREST IN A PUBLIC CONTRACT.

(a) No public official shall knowingly do any of the following:

- During the public official's term of office or within one year thereafter, occupy any position of profit in the prosecution of a public contract authorized by the public official or by a legislative body, commission or board of which the public official was a member at the time of authorization unless the contract was let by competitive bidding, to the lowest and best bidder;
- Have an interest in the profits or benefits of a public contract entered into by or for the use of the Municipality or governmental agency or instrumentality with which the public official is connected;
- (3) Have an interest in the profits or benefits of a public contract that is not let by competitive bidding if required by law, and that involves more than one hundred fifty dollars (\$150.00).
- (b) In the absence of bribery or a purpose to defraud, a public official, member of a public official's family or any of a public official's business associates shall not be considered as having an interest in a public contract if all of the following apply:
 - (1) The interest of that person is limited to owning or controlling shares of the corporation, or being a creditor of the corporation or other organization that is the contractor on the public contract involved, or that is the issuer of the security in which public funds are invested;
 - (2) The shares owned or controlled by that person do not exceed five percent (5%) of the outstanding shares of the corporation, and the amount due that person as creditor does not exceed five percent (5%) of the total indebtedness of the corporation or other organization;
 - (3) That person, prior to the time the public contract is entered into, files with the Municipality or governmental agency or instrumentality involved, an affidavit giving that person's exact status in connection with the corporation or other organization.
- (c) This section does not apply to a public contract in which a public official, member of a public official's family, or one of a public official's business associates, has an interest, when all of the following apply:
 - (1) The subject of the public contract is necessary supplies or services for the Municipality or governmental agency or instrumentality involved;

- (2) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the Municipality or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public official's becoming associated with the Municipality or governmental agency or instrumentality involved;
- (3) The treatment accorded the Municipality or governmental agency or instrumentality is either preferential to or the same as that accorded other customers or clients in similar transactions;
- (4) The entire transaction is conducted at arm's length, with full knowledge by the Municipality or governmental agency or instrumentality involved, of the interest of the public official, member of the public official's family or business associate, and the public official takes no part in the deliberations or decisions of the Municipality or governmental agency or instrumentality with respect to the public contract.
- (d) Subsection (a)(4) does not prohibit participation by a public employee in any housing program funded by public moneys if the public employee otherwise qualifies for the program and does not use the authority or influence of the public employee's office or employment to secure benefits from the program and if the moneys are to be used on the primary residence of the public employee. Such participation does not constitute an unlawful interest in a public contract in violation of this section.
- (e) Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of this section is a misdemeanor of the first degree.
- (f) It is not a violation of this section for a prosecuting attorney to appoint assistants and employees in accordance with Ohio R.C. 309.06 and 2921.421, or for a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with Ohio R.C. 733.621 and 2921.421.
- (g) Any public contract in which a public official, a member of the public official's family, or any of the public official's business associates has an interest in violation of this section is void and unenforceable. Any contract securing the investment of public funds in which a public official, a member of the public official's family, or any of the public official's business associates has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees and that was entered into in violation of this section is void and unenforceable.
 - (h) As used in this section:
 - (1) "Public contract" means any of the following:
 - A. The purchase or acquisition, or a contract for the purchase or acquisition of property or services by or for the use of the State, any of its political subdivisions, or any agency or instrumentality of either, including the employment of an individual by the State, any of its political subdivisions, or any agency or instrumentality of either.
 - B. A contract for the design, construction, alteration, repair or maintenance of any public property.
 - "Chief legal officer" has the same meaning as in Ohio R.C. 733.621. (ORC 2921.42)

525.11 SOLICITING OR RECEIVING IMPROPER COMPENSATION.

- (a) No public servant shall knowingly solicit or accept and no person shall knowingly promise or give to a public servant either of the following:
 - (1) Any compensation, other than is allowed by Ohio R.C. 102.03(G), (H), and (I) or other provisions of law, to perform the public servant's official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation;
 - (2) Additional or greater fees or costs than are allowed by law to perform the public servant's official duties.
- (b) No public servant for the public servant's own personal or business use and no person for the person's own personal or business use or for the personal or business use of a public servant or party official, shall solicit or accept anything of value in consideration of either of the following:
 - (1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;
 - Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion or other material aspects of employment.
- (c) No person for the benefit of a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity shall coerce any contribution in consideration of either of the following:
 - (1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;
 - Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion or other material aspects of employment.
- (d) Whoever violates this section is guilty of soliciting improper compensation, a misdemeanor of the first degree.
- (e) A public servant who is convicted of a violation of this section is disqualified from holding any public office, employment or position of trust in this Municipality for a period of seven years from the date of conviction.
- (f) Subsections (a), (b) and (c) hereof do not prohibit a person from making voluntary contributions to a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity or prohibit a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity from accepting voluntary contributions. (ORC 2921.43)

525.12 DERELICTION OF DUTY.

- (a) No law enforcement officer shall negligently do any of the following:
 - (1) Fail to serve a lawful warrant without delay;
 - (2) Fail to prevent or halt the commission of an offense or to apprehend an offender, when it is in the law enforcement officer's power to do so alone or with available assistance.

- (b) No law enforcement, ministerial or judicial officer shall negligently fail to perform a lawful duty in a criminal case or proceeding.
- (c) No officer, having charge of a detention facility, shall negligently do any of the following:

(1) Allow the detention facility to become littered or unsanitary;

- (2) Fail to provide persons confined in the detention facility with adequate food, clothing, bedding, shelter and medical attention;
- (3) Fail to control an unruly prisoner, or to prevent intimidation of or physical harm to a prisoner by another;

(4) Allow a prisoner to escape;

- (5) Fail to observe any lawful and reasonable regulation for the management of the detention facility.
- (d) No public official of the Municipality shall recklessly create a deficiency, incur a liability or expend a greater sum than is appropriated by the legislative authority of the Municipality for the use in any one year of the department, agency or institution with which the public official is connected.
- (e) No public servant shall recklessly fail to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office.
- (f) Whoever violates this section is guilty of dereliction of duty, a misdemeanor of the second degree.
- (g) As used in this section, "public servant" includes an officer or employee of a contractor as defined in Ohio R.C. 9.08.

525.13 INTERFERING WITH CIVIL RIGHTS.

- (a) No public servant, under color of 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 harborer of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police dog or horse that at the time of the conduct is assisting a law enforcement officer in the performance of the officer's duties or that the person knows is a police dog or horse.
- (c) No person shall knowingly cause, or attempt to cause, physical harm to an assistance dog in either of the following circumstances:
 - (1) The dog is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted.
 - (2) The dog is not assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog is an assistance dog.
 - (d) No person shall recklessly do any of the following:
 - (1) Taunt, torment, or strike an assistance dog;
 - (2) Throw an object or substance at an assistance dog;
 - (3) Interfere with or obstruct an assistance dog, or interfere with or obstruct a blind, deaf or hearing impaired, or mobility impaired person who is being assisted or served by an assistance dog, in a manner that does any of the following:
 - A. Inhibits or restricts the assisted or served person's control of the dog:

- B. Deprives the assisted or served person of control of the dog;
- C. Releases the dog from its area of control;
- D. Enters the area of control of the dog without the consent of the assisted or served person, including placing food or any other object or substance into that area;
- E. Inhibits or restricts the ability of the dog to assist the assisted or served person.
- (4) Engage in any conduct that is likely to cause serious physical injury or death to an assistance dog;
- (5) If the person is the owner, keeper or harborer of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger an assistance dog that at the time of the conduct is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person or that the person knows is an assistance dog.
- (e) Whoever violates subsection (a) hereof is guilty of assaulting a police dog or horse. If the violation results in physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the police dog or horse, such violation is a felony and shall be prosecuted under appropriate State law.
 - Whoever violates subsection (b) hereof is guilty of harassing a police dog or horse. Except as otherwise provided in this subsection, harassing a police dog or horse is a misdemeanor of the second degree. If the violation results in the death of the police dog or horse or if the violation results in serious physical harm to the police dog or horse but does not result in its death, harassing a police dog or horse is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the police dog or horse but does not result in its death or in serious physical harm to it, harassing a police dog or horse is a misdemeanor of the first degree.
 - (3) Whoever violates subsection (c) hereof is guilty of assaulting an assistance dog. If the violation results in physical harm to the dog other than death or serious physical harm, assaulting an assistance dog is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the dog, assaulting an assistance dog is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the dog, such violation is a felony and shall be prosecuted under appropriate State law.
 - Whoever violates subsection (d) of this section is guilty of harassing an assistance dog. Except as otherwise provided in this subsection, harassing an assistance dog is a misdemeanor of the second degree. If the violation results in the death of or serious physical harm to the assistance dog but does not result in its death, harassing an assistance dog is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the assistance dog but does not result in its death or in serious physical harm to it, harassing an assistance dog is a misdemeanor of the first degree.

- (5) In addition to any other sanction or penalty imposed for the offense under this section, whoever violates subsection (a), (b), (c) or (d) of this section is responsible for the payment of all of the following:
 - A. Any veterinary bill or bill for medication incurred as a result of the violation by the Police Department regarding a violation of subsection (a) or (b) of this section or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog regarding a violation of subsection (c) or (d) of this section:
 - B. The cost of any damaged equipment that results from the violation;
 - C. If the violation did not result in the death of the police dog or horse or the assistance dog that was the subject of the violation and if, as a result of that dog or horse being the subject of the violation, the dog or horse needs further training or retraining to be able to continue in the capacity of a police dog or horse or an assistance dog, the cost of any further training or retraining of that dog or horse by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog;
 - D. If the violation resulted in the death of the assistance dog that was the subject of the violation or resulted in serious physical harm to the police dog or horse or the assistance dog or horse that was the subject of the violation to the extent that the dog or horse needs to be replaced on either a temporary or a permanent basis, the cost of replacing that dog or horse and of any further training of a new police dog or horse or a new assistance dog by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog, which replacement or training is required because of the death of or the serious physical harm to the dog or horse that was the subject of the violation.
- (f) This section does not apply to a licensed veterinarian whose conduct is in accordance with Ohio R.C. Chapter 4741.
- (g) This section only applies to an offender who knows or should know at the time of the violation that the police dog or horse or assistance dog that is the subject of a violation under this section is a police dog or horse or assistance dog.
 - (h) As used in this section:
 - (1) "Physical harm" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.
 - "Police dog or horse" means a dog or horse that has been trained, and may be used, to assist law enforcement officers in the performance of their official duties.
 - (3) "Serious physical harm" means any of the following:
 - A. Any physical harm that carries a substantial risk of death;
 - B. Any physical harm that causes permanent maining or that involves some temporary, substantial maining;
 - C. Any physical harm that causes acute pain of a duration that results in substantial suffering.

"Assistance dog", "blind", and "mobility impaired person" have the same meanings as in Ohio R.C. 955.011.
(ORC 2921.321)

525.16 REGISTRATION OF FELONS.

- (a) Any person coming into or now within this Municipality who has been convicted of two felonies or more in any court or is presently on parole or probation shall, within twenty-four hours of arrival within this Municipality, register with the Police Division by giving a written statement, setting forth the person's name, address, and all felonies of which the person has been convicted, the date and place of the convictions and the length of time that the person intends to remain within this Municipality. Any person required to so register shall report any change of address to the Police Division within twenty-four hours.
- (b) Whoever violates this section is guilty of a misdemeanor of the second degree. (Ord. 78-863. Passed 10-2-78.)

525.17 FAILURE TO ANSWER SUMMONS OR SUBPOENA.

If the person summoned or subpoenaed to appear as provided in Ohio R.C. 2935.10(B) fails to appear without just cause and personal service of the summons was had upon the person, the person may be found guilty of contempt of court, and may be fined not more than one hundred dollars (\$100.00) for such contempt. Upon failure to appear the Court or Magistrate may forthwith issue a warrant for the person's arrest. (Ord. 78-863. Passed 10-2-78.)

525.18 FALSE ALLEGATION OF PEACE OFFICER MISCONDUCT.

- (a) As used in this section, "peace officer" has the same meaning as in Ohio R.C. 2935.01.
- No person shall knowingly file a complaint against a peace officer that alleges that the peace officer engaged in misconduct in the performance of the officer's duties if the person knows that the allegation is false.
- (c) Whoever violates this section is guilty of making a false allegation of peace officer misconduct, a misdemeanor of the first degree. (ORC 2921.15)

525.19 REFUSAL TO DISCLOSE PERSONAL INFORMATION IN PUBLIC PLACE.

- (a) No person who is in a public place shall refuse to disclose the person's name, address, or date of birth, when requested by a law enforcement officer who reasonably suspects either of the following:
 - (1) The person is committing, has committed, or is about to commit a criminal offense.
 - (2) The person witnessed any of the following:
 - A. An offense of violence that would constitute a felony under the laws of this State;
 - B. A felony offense that causes or results in, or creates a substantial risk of, serious physical harm to another person or to property;
 - C. Any attempt or conspiracy to commit, or complicity in committing, any offense identified in subsection (a)(2)A. or B. of this section;

- D. Any conduct reasonably indicating that any offense identified in subsection (a)(2)A. or B. of this section or any attempt, conspiracy, or complicity described in subsection (a)(2)C. of this section has been, is being, or is about to be committed.
- (b) Whoever violates this section is guilty of failure to disclose one's personal information, a misdemeanor of the fourth degree.
- (c) Nothing in this section requires a person to answer any questions beyond that person's name, address, or date of birth. Nothing in this section authorizes a law enforcement officer to arrest a person for not providing any information beyond that person's name, address, or date of birth or for refusing to describe the offense observed.
- (d) It is not a violation of this section to refuse to answer a question that would reveal a person's age or date of birth if age is an element of the crime that the person is suspected of committing. (ORC 2921.29)

525.99 PENALTY.

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

CHAPTER 529 Liquor Control

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

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 Oho 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.

- (d) No person is required to permit the engagement of accommodations at any hotel, inn, cabin or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not supervised by a parent, spouse who is not an underage person or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.
 - (2) No underage person shall knowingly engage or attempt to engage accommodations at any hotel, inn, cabin or campground by presenting identification that falsely indicates that the underage person is twenty-one years of age or older for the purpose of violating this section.
- (e) No underage person shall knowingly order, pay for, share the cost of, attempt to purchase, possess, or consume any beer or intoxicating liquor, in any public or private place. No underage person shall knowingly be under the influence of any beer or intoxicating liquor in any public place. The prohibitions set forth in this subsection (e) hereof against an underage person knowingly possessing, consuming, or being under the influence of any beer or intoxicating liquor shall not apply if the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian, or the beer or intoxicating liquor is given by a physician in the regular line of the physician's practice or given for established religious purposes.
- (f) No parent, spouse who is not an underage person or legal guardian of a minor shall knowingly permit the minor to violate this section or Section 529.021(a) to (c).
- (g) The operator of any hotel, inn, cabin or campground shall make the provisions of this section available in writing to any person engaging or using accommodations at the hotel, inn, cabin or campground.
 - (h) As used in this section:
 - (1) "Drug of abuse" has the same meaning as in Ohio R.C. 3719.011.
 - (2) "Hotel" has the same meaning as in Ohio R.C. 3731.01.
 - "Licensed health professional authorized to prescribe drugs" and "prescription" have the same meanings as in Ohio R.C. 4729.01.
 - (4) "Minor" means a person under the age of eighteen years.
 - "Underage person" means a person under the age of twenty-one years. (ORC 4301.69)
- (i) Whoever violates this section is guilty of a misdemeanor of the first degree. In addition, whoever violates subsection (a) hereof shall be fined not less than five hundred dollars (\$500.00). (ORC 4301.99)

529.021 PURCHASE BY MINOR; MISREPRESENTATION.

(a) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person under the age of twenty-one years shall purchase beer or intoxicating liquor. (ORC 4301.63)

- (b) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person shall knowingly furnish any false information as to the name, age or other identification of any person under twenty-one years of age for the purpose of obtaining or with the intent to obtain, beer or intoxicating liquor for a person under twenty-one years of age, by purchase, or as a gift. (ORC 4301.633)
- (c) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person under the age of twenty-one years shall knowingly show or give false information concerning the person's name, age or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place where beer or intoxicating liquor is sold under a permit issued by the Division of Liquor Control or sold by the Division of Liquor Control. (ORC 4301.634)
 - (d) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the first degree.
 - Whoever violates subsection (a) hereof, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). The court imposing a fine for a violation of subsection (a) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed.
 - (3) A. Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. If, in committing a first violation of that subsection, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000) and may be sentenced to a term of imprisonment of not more than six months.
 - B. On a second violation in which, for the second time, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000), and may be sentenced to a term of imprisonment of not more than six months. The court also may impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(7).

C. On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000), and may be sentenced to a term of imprisonment of not more than six months. Except as provided in this subsection, the court also may impose a class six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(6), and the court may order that the suspension or denial remain in effect until the offender attains the age of twenty-one years. The court, in lieu of suspending the offenders temporary instruction permit, probationary driver's license or driver's license, instead may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform. (ORC 4301.99)

529.03 SALES TO INTOXICATED PERSONS.

- (a) No permit holder and no agent or employee of a permit holder shall sell or furnish beer or intoxicating liquor to an intoxicated person. (ORC 4301.22)
- (b) Whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4301.99)

529.04 LIQUOR CONSUMPTION IN MOTOR VEHICLE.

- (a) No person shall consume any beer or intoxicating liquor in a motor vehicle. This section does not apply to persons described in Section 529.07(d). (ORC 4301.64)
- (b) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree.
- (c) If an offender who violates this section was under the age of eighteen years at the time of the offense, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit, probationary driver's license, or driver's license for a period of not less than six months and not more than one year. In lieu of suspending the offender's temporary instruction permit, probationary driver's license or driver's license, the court may instead require the offender to perform community service for a number of hours to be determined by the court. If the offender is fifteen years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of fifteen years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of sixteen years. (ORC 4301.99)

529.05 PERMIT REQUIRED.

- (a) No person personally or by the person's clerk, agent or employee shall manufacture, manufacture for sale, offer, keep or possess for sale, furnish or sell, or solicit the purchase or sale of any beer or intoxicating liquor in this Municipality, or transport, import or cause to be transported or imported any beer, intoxicating liquor or alcohol on or into this Municipality for delivery, use or sale, unless the person has fully complied with Ohio R.C. Chapters 4301 and 4303 or is the holder of a permit issued by the Division of Liquor Control and in force at the time. (ORC 4303.25)
 - (b) Whoever violates this section is guilty of a minor misdemeanor.

529.06 LOW-ALCOHOL BEVERAGES: SALE TO AND PURCHASE BY UNDERAGE PERSONS PROHIBITED.

- (a) As used in this section, "underage person" means a person under eighteen years of age.
 - (b) No underage person shall purchase any low-alcohol beverage.
- (c) No underage person shall order, pay for, share the cost of, or attempt to purchase any low-alcohol beverage.
- (d) No person shall knowingly furnish any false information as to the name, age, or other identification of any underage person for the purpose of obtaining or with the intent to obtain any low-alcohol beverage for an underage person, by purchase or as a gift.
- (e) No underage person shall knowingly show or give false information concerning the person's name, age, or other identification for the purpose of purchasing or otherwise obtaining any low-alcohol beverage in any place in this Municipality.
- (f) No person shall sell or furnish any low-alcohol beverage to, or buy any low-alcohol beverage for, an underage person, unless given by a physician in the regular line of his practice or given for established religious purposes, or unless the underage person is accompanied by a parent, spouse who is not an underage person, or legal guardian.
- (g) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming any low-alcohol beverage, unless the low-alcohol beverage is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian, and the parent, spouse who is not an underage person, or legal guardian is present when the person possesses or consumes the low-alcohol beverage.

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

- (h) No underage person shall knowingly possess or consume any low-alcohol beverage in any public or private place, unless accompanied by a parent, spouse who is not an underage person, or legal guardian, or unless the low-alcohol beverage is given by a physician in the regular line of the physician's practice or given for established religious purposes.
- (i) No parent, spouse who is not an underage person, or legal guardian of an underage person shall knowingly permit the underage person to violate this section. (ORC 4301.631)

- (j) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the fourth degree.
- (k) Whoever violates subsection (b) hereof shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). The court imposing a fine for a violation of subsection (b) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed. (ORC 4301.99)

529.07 OPEN CONTAINER PROHIBITED.

- (a) As used in this section:
 - (1) "Chauffeured limousine" means a vehicle registered under Ohio R.C. 4503.24.
 - (2) "Street," "highway" and "motor vehicle" have the same meanings as in Ohio R.C. 4511.01.
- (b) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

(1) In a State liquor store;

Except as provided in subsection (c) hereof, on the premises of the holder of any permit issued by the Division of Liquor Control;

(3) In any other public place;

- Except as provided in subsection (d) or (e) hereof, while operating or being a passenger in or on a motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking;
- (5) Except as provided in subsection (d) or (e) hereof, while being in or on a stationary motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking.
- (c) A person may have in the person's possession an opened container of any of the following:
 - A. Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-2(f), A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D8, E, F, F-2, F-5, F-7 or F-8 permit:
 - B. Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit, wine served as a tasting sample by an A-2 permit holder or S permit holder for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;
 - C. Beer or intoxicating liquor consumed on the premises of a convention facility as provided in Ohio R.C. 4303.201;
 - D. Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission.
 - E. Spirituous liquor to be consumed for purposes of a tasting sample, as defined in Ohio R.C. 4301.171.

- (2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this section, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.
- (3) A. A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.
 - B. As used in subsection (c)(3)A. of this section:
 - 1. "Orchestral performance" means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.
 - 2. "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than one hundred fifty acres of land and that is open for performances from the first day of April to the last day of October of each year.
- (4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in subsection (c)(3)B.1. hereof if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.
- (5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending either of the following:
 - A. An orchestral performance and the F-9 permit holder grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued;
 - B. An outdoor performing arts event or orchestral performance that is free of charge and the F-9 permit holder annually hosts not less than twenty-five other events or performances that are free of charge on the permit premises.

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

- (6) A. A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:
 - 1. The person is attending a racing event at the facility; and

- 2. The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility;
- B. As used in subsection (c)(6)A. of this section:
 - 1. "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.
 - 2. "Outdoor motorsports facility" means an outdoor racetrack to which all of the following apply:
 - a. It is two and four-tenths miles or more in length.
 - b. It is located on two hundred acres or more of land.
 - c. The primary business of the owner of the facility is the hosting and promoting of racing events.
 - d. The holder of a D-1, D-2 or D-3 permit is located on the property of the facility.
- (7) A. A person may have in the person's possession an opened container of beer or intoxicating liquor at an outdoor location within an outdoor refreshment area created under Ohio R.C. 4301.82, if the opened container of beer or intoxicating liquor was purchased from an A-1, A-1-A, A-1c, A-2, A-2f, D class or F class permit holder to which both of the following apply:
 - 1. The permit holder's premises is located within the outdoor refreshment area.
 - 2. The permit held by the permit holder has an outdoor refreshment area designation.
 - B. Subsection (c)(7) of this section does not authorize a person to do either of the following:
 - 1. Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;
 - 2. Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, unless the possession is otherwise authorized under subsection (d) or (e) of this section.
 - C. As used in subsection (c)(7) of this section, "D class permit holder" does not include a D-6 or D-8 permit holder.
- (8) A. A person may have in the person's possession on the property of a market, within a defined F-8 permit premises, an opened container of beer or intoxicating liquor that was purchased from a D permit premises that is located immediately adjacent to the market if both of the following apply:
 - 1. The market grants permission for the possession and consumption of beer and intoxicating liquor within the defined F-8 permit premises;
 - 2. The market is hosting an event pursuant to an F-8 permit and the market has notified the Division of Liquor Control about the event in accordance with division (A)(3) of Ohio R.C. 4303.208.
 - B. As used in subsection (c)(8) of this section, market means a market, for which an F-8 permit is held, that has been in operation since 1860.

- (d) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of such a person, when all of the following apply:
 - (1) The person or guest is a passenger in the limousine;
 - The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located;
 - The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.
- (e) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:
 - (1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.
 - (2) The opened bottle of wine that is resealed in accordance with subsection (e)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.
 - (f) Except if an ordinance or resolution is enacted or adopted under subsection (f)(2) of this section, this section does not apply to a person who, pursuant to a prearranged contract, is a passenger riding on a commercial quadricycle when all of the following apply:
 - A. The person is not occupying a seat in the front of the commercial quadricycle where the operator is steering or braking.
 - B. The commercial quadricycle is being operated on a street, highway or other public or private property open to the public for purposes of vehicular travel or parking.
 - C. The person has in their possession on the commercial quadricycle an opened container of beer or wine.
 - D. The person has in their possession on the commercial quadricycle not more than either thirty-six ounces of beer or eighteen ounces of wine.
 - (2) The legislative authority of a municipal corporation or township may enact an ordinance or adopt a resolution, as applicable, that prohibits a passenger riding on a commercial quadricycle from possessing an opened container or beer or wine.
 - (3) As used in this section, "commercial quadricycle" means a vehicle that has fully-operative pedals for propulsion entirely by human power and that meets all of the following requirements:
 - A. It has four wheels and is operated in a manner similar to a bicycle.
 - B. It has at least five seats for passengers.
 - C. It is designed to be powered by the pedaling of the operator and the passengers.
 - D. It is used for commercial purposes.
 - E. It is operated by the vehicle owner or an employee of the owner.

- (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) 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.
 - 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-5I, 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.
 - 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

	Definitions. Presumption of knowledge;		Deception to obtain matter harmful to juveniles.
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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.

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

- (j) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape or similar data storage device.
- (k) "Performance" means any motion picture, preview, trailer, play, show, skit, dance or other exhibition performed before an audience.
- (l) "Spouse" means a person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply:
 - (1) When the parties have entered into a written separation agreement authorized by Ohio R.C. 3103.06;
 - (2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage or legal separation;
 - (3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.
 - (m) "Minor" means a person under the age of eighteen years.
 - (n) "Mental health client or patient" has the same meaning as in Ohio R.C. 2305.51.
 - (o) "Mental health professional" has the same meaning as in Ohio R.C. 2305.115.
- (p) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained. (ORC 2907.01)

533.02 PRESUMPTION OF KNOWLEDGE; ACTUAL NOTICE AND DEFENSE.

- (a) An owner or manager, or agent or employee of an owner or manager, of a bookstore, newsstand, theater, or other commercial establishment engaged in selling materials or exhibiting performances, who, in the course of business does any of the acts prohibited by Section 533.11, is presumed to have knowledge of the character of the material or performance involved, if the owner, manager, or agent or employee of the owner or manager has actual notice of the nature of such material or performance, whether or not the owner, manager, or agent or employee of the owner or manager has precise knowledge of its contents.
- (b) Without limitation on the manner in which such notice may be given, actual notice of the character of material or a performance may be given in writing by the chief legal officer of the jurisdiction in which the person to whom the notice is directed does business. Such notice, regardless of the manner in which it is given, shall identify the sender, identify the material or performance involved, state whether it is obscene or harmful to juveniles and bear the date of such notice.
- (c) Section 533.11 does not apply to a motion picture operator or projectionist acting within the scope of employment as an employee of the owner or manager of a theater or other place for the showing of motion pictures to the general public, and having no managerial responsibility or financial interest in the operator's or projectionist's place of employment, other than wages.

- (d) Sections 533.11, 533.12(a) and 533.13 do not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection.
 - (2) Subsection (d)(1) of this section does not apply to a person who conspires with an entity actively involved in the creation or knowing distribution of material in violation of Section 533.11, 533.12 or 533.13, or who knowingly advertises the availability of material of that nature.
 - (3) Subsection (d)(1) of this section does not apply to a person who provides access or connection to an electronic method of remotely transferring information that is engaged in the violation of Section 533.11, 533.12 or 533.13, and that contains content that person has selected and introduced into the electronic method of remotely transferring information or content over which that person exercises editorial control.
- (e) An employer is not guilty of a violation of Section 533.11, 533.12, or 533.13 based on the actions of an employee or agent of the employer unless the employee's or agent's conduct is within the scope of employee's or agent's employment or agency, and the employer does either of the following:
 - (1) With knowledge of the employee's or agent's conduct, the employer authorizes or ratifies the conduct.
 - (2) The employer recklessly disregards the employee's or agent's conduct.
- (f) It is an affirmative defense to a charge under Section 533.11 or 533.13 as the section applies to an image transmitted through the internet or another electronic method of remotely transmitting information that the person charged with violating the section has taken, in good faith, reasonable, effective, and appropriate actions under the circumstances to restrict or prevent access by juveniles to material that is harmful to juveniles, including any method that is feasible under available technology.
- (g) If any provision of this section, or the application of any provision of this section to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this section or related sections that can be given effect without the invalid provision or application. To this end, the provisions are severable.

 (ORC 2907.35)

533.03 UNLAWFUL SEXUAL CONDUCT WITH A MINOR.

(a) No person, who is eighteen years of age or older, shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard.

(b) Whoever violates this section is guilty of unlawful sexual conduct with a minor, a misdemeanor of the first degree. If the offender is four years older or more than the other person, or if the offender has previously been convicted of or pleaded guilty to a violation of Ohio R.C. 2907.02, 2907.03 or 2907.04, or former Ohio R.C. 2907.12, unlawful sexual conduct with a minor is a felony and shall be prosecuted under appropriate State law. (ORC 2907.04)

533.04 SEXUAL IMPOSITION.

(a) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more persons to have sexual contact when any of the following applies:

(1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.

The offender knows that the other person's or one of the other person's ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.

(3) The offender knows that the other person or one of the other persons

submits because of being unaware of the sexual contact.

(4) The other person or one of the other persons is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than such other person.

- (5) The offender is a mental health professional, the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.
- (b) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.
- (c) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06 or former Section 2907.12, or a substantially similar municipal ordinance, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 2907.02, 2907.03, 2907.04 or 2907.05, 2907.06 or former Section 2907.12 or of any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in Ohio R.C. 2929.24, the court may impose on the offender a definite jail term of not more than one year. (ORC 2907.06)

533.05 IMPORTUNING.

(EDITOR'S NOTE: Former Section 533.05 has been deleted from the Codified Ordinances. Section 533.05 was identical to Ohio R.C. 2907.07(B) which the Ohio Supreme Court held to be unconstitutional in State v. Thompson, 95 Ohio St. 3rd 264 (2002).)

533.06 VOYEURISM.

(a) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.

- (b) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph, or otherwise record the other person in a state of nudity.
- (c) No person shall secretly or surreptitiously videotape, film, photograph, or otherwise record another person under or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person.
 - (d) (1) Whoever violates this section is guilty of voyeurism.
 - (2) A violation of subsection (a) hereof is a misdemeanor of the third degree.
 - (3) A violation of subsection (b) hereof is a misdemeanor of the second degree.
 - (4) A violation of subsection (c) hereof is a misdemeanor of the first degree. (ORC 2907.08)

533.07 PUBLIC INDECENCY.

- (a) No person shall recklessly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront others, who are in the person's physical proximity and who are not members of the person's household:
 - (1) Expose the person's private parts;
 - (2) Engage in sexual conduct or masturbation;
 - Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation.
- (b) No person shall knowingly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is in the person's physical proximity, who is a minor, and who is not the spouse of the offender:
 - (1) Engage in masturbation;
 - (2) Engage in sexual conduct;
 - Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation;
 - (4) Expose the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.
 - (c) Whoever violates this section is guilty of public indecency and shall be punished as provided in subsections (c)(2), (3), (4) and (5) of this section.
 - (2) Except as otherwise provided in subsection (c)(2) of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the third degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to two violations of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.

- (3) Except as otherwise provided in subsection (c)(3) of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.
- (4) Except as otherwise provided in subsection (c)(4) of this section, a violation of subsection (b)(1), (2) or (3) of this section is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (b)(1), (2) or (3) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (b)(1), (2) or (3) of this section is a felony and shall be prosecuted under appropriate state law.
- (5) A violation of subsection (b)(4) of this section is a misdemeanor of the first degree unless the offender previously has been convicted of or pleaded guilty to any violation of this section in which case the violation is a felony and shall be prosecuted under appropriate state law.
- (d) (1) If either of the following applies, the court may determine at the time of sentencing whether to classify the offender as a tier I sex offender/child-victim offender for a violation of subsection (b)(4) of this section:
 - A. The offender is less than ten years older than the other person.
 - B. The offender is ten or more years older than the other person and the offender has not previously been convicted of or pleaded guilty to any violation of this section.
 - (2) If the offender is convicted of or pleads guilty to a violation of subsection (b)(4) of this section, is ten or more years older than the other person, and previously has been convicted of or pleaded guilty to any violation of this section, the court shall issue an order at the time of sentencing that classifies the offender as a tier I sex offender/child-victim offender subject to registration under Ohio R.C. 2950.04, 2950.041, 2950.05 and 2950.06. (ORC 2907.09)

533.08 PROCURING; 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;
 - 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.
 - 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) 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.
 - 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.
 - 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, Cityowned 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.
 - "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.
 - "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;

- 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.
- 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;

- 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.
	Vehicular homicide and	537.13	Adulterating of or
	manslaughter.		furnishing adulterated
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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.

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

537.02 VEHICULAR HOMICIDE AND MANSLAUGHTER.

- 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:
 - Negligently; (1)

- 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).
 - 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.
 - "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.
 - "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) 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.
 - Except as otherwise provided in this subsection, if the offense is committed by a caretaker against a functionally impaired person under the caretaker's care.

- (3) If the offense occurs in or on the grounds of a State correctional institution or an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction or the Department of Youth Services, and the offense is committed by a person incarcerated in the State correctional institution or by a person institutionalized in the Department of Youth Services Institution pursuant to a commitment to the Department of Youth Services.
- (4) If the offense is committed in any of the following circumstances:
 - A. The offense occurs in or on the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department or is on the premises of the facility for business purposes or as a visitor, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person's being charged with or convicted of any crime, or subsequent to the person's being alleged to be or adjudicated a delinquent child.
 - B. The offense occurs off the grounds of a State correctional institution and off the grounds of an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction, the Department of Youth Services, or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person incarcerated in a State correctional institution or institutionalized in the Department of Youth Services who temporarily is outside of the institution for any purpose, by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency
 - C. The offense occurs off the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person being charged with or convicted of any crime, or subsequent to the person being alleged to be or adjudicated a delinquent child and who temporarily is outside of the facility for any purpose or by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.
 - D. The victim of the offense is a school teacher or administrator or a school bus operator, and the offense occurs in a school, on school premises, in a school building, on a school bus or while the victim is outside of school premises or a school bus and is engaged in duties or official responsibilities associated with the victim's

employment or position as a school teacher or administrator or a school bus operator, including, but not limited to, driving, accompanying, or chaperoning students at or on class or field trips, athletic events, or other school extracurricular activities or functions outside of school premises.

- (5) If the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation, a firefighter, or a person performing emergency medical service, while in the performance of their official duties.
- (6) If the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation and if the victim suffered serious physical harm as a result of the commission of the offense.
- (7) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties.
- (8) If the victim of the offense is a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital whom the offender knows or has reasonable cause to know is a health care professional of a hospital; a health care worker of a hospital, or a security officer of a hospital, if the victim is engaged in the performance of the victim's duties, and if the hospital offers de-escalation or crisis intervention training for such professionals, workers or officers, assault is one of the following:
 - A. Except as otherwise provided in subsection (c)(8)B. of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. Notwithstanding the fine specified in division (A)(2)(b) of Ohio R.C. 2929.28 for a misdemeanor of the first degree, in sentencing the offender under this subsection and if the court decides to impose a fine, the court may impose upon the offender a fine of not more than five thousand dollars (\$5,000).
 - B. If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against hospital personnel, assault committed in the specified circumstances is a felony.
- (9) If the victim of the offense is a judge, magistrate, prosecutor or court official or employee whom the offender knows or has reasonable cause to know is a judge, magistrate, prosecutor or court official or employee, and if the victim is engaged in the performance of the victim's duties, assault is one of the following:
 - A. Except as otherwise provided in subsection (c)(9)B. of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. In sentencing the offender under this subsection, if the court decides to impose a fine, notwithstanding the fine specified in division (A)(2)(b) of Ohio R.C. 2929.28 for a misdemeanor of the first degree, the court may impose upon the offender a fine of not more than five thousand dollars (\$5,000).
 - B. If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against justice system personnel, assault committed in the specified circumstances is a felony.

- (10) If an offender who is convicted of or pleads guilty to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in Ohio R.C. 2941.1423 that was included in the indictment, count in the indictment or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of Ohio R.C. 2929.24.
- (d) As used in this section:
 - (1) "Peace officer" has the same meaning as in Ohio R.C. 2935.01.
 - (2) "Firefighter" has the same meaning as in Ohio R.C. 3937.41.
 - (3) "Emergency medical service" has the same meaning as in Ohio R.C. 4765.01.
 - (4) "Local correctional facility" means a county, multicounty, municipal, municipal-county or multicounty-municipal jail or workhouse. A minimum security jail established under Ohio R.C. 341.23 or 753.21, or another county, multicounty, municipal, municipal-county, or multicounty-municipal facility used for the custody of persons arrested for any crime or delinquent act, persons charged with or convicted of any crime, or persons alleged to be or adjudicated a delinquent child.
 - (5) "Employee of a local correctional facility" means a person who is an employee of the political subdivision or of one or more of the affiliated political subdivisions that operates the local correctional facility and who operates or assists in the operation of the facility.
 - (6) "School teacher or administrator" means either of the following:
 - A. A person who is employed in the public schools of the State under a contract described in Ohio R.C. 3311.77 or 3319.08 in a position in which the person is required to have a certificate issued pursuant to Ohio R.C. 3319.22 to 3319.311.
 - B. A person who is employed by a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and who is certified in accordance with Ohio R.C. 3301.071.
 - (7) "Community control sanction" has the same meaning as in Ohio R.C. 2929.01.
 - (8) "Escorted visit" means an escorted visit granted under Ohio R.C. 2967.27.
 - (9) "Post-release control" and "transitional control" have the same meanings as in Ohio R.C. 2967.01.
 - (10) "Investigator of the Bureau of Criminal Identification and Investigation" has the same meaning as in Ohio R.C. 2903.11.
 - (11) "Health care professional" and "health care worker" have the same meanings as in Ohio R.C. 2305.234.
 - "Assault or homicide offense committed against hospital personnel" means a violation of this section or Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 or 2903.14 committed in circumstances in which all of the following apply:
 - A. The victim of the offense was a health care professional of a hospital, a health care worker of a hospital or a security officer of a hospital.
 - B. The offender knew or had reasonable cause to know that the victim was a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital;

- C. The victim was engaged in the performance of the victim's duties.
- D. The hospital offered de-escalation or crisis intervention training for such professionals, workers or officers.
- (13) "De-escalation or crisis intervention training" means de-escalation or crisis intervention training for health care professionals of a hospital, health care workers of a hospital, and security officers of a hospital to facilitate interaction with patients, members of a patient's family, and visitors, including those with mental impairments.
- "Assault or homicide offense committed against justice system personnel" means a violation of this section or of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 or 2903.14 committed in circumstances in which the victim of the offense was a judge, magistrate, prosecutor, or court official or employee whom the offender knew or had reasonable cause to know was a judge, magistrate, prosecutor, or court official or employee, and the victim was engaged in the performance of the victim's duties.
- "Court official or employee" means any official or employee of a court created under the constitution or statutes of this State or of a United States court located in this State.
- (16) "Judge" means a judge of a court created under the constitution or statutes of this State or of a United States court located in this State.
- (17) "Magistrate" means an individual who is appointed by a court of record of this State and who has the powers and may perform the functions specified in Civil Rule 53, Criminal Rule 19, or Juvenile Rule 40, or an individual who is appointed by a United States court located in this State who has similar powers and functions.
- (18) "Prosecutor" has the same meaning as in Ohio R.C. 2935.01.
- (19) A. "Hospital" means, subject to subsection (d)(19)B. of this section, an institution classified as a hospital under Ohio R.C. 3701.01 in which are provided to patients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care or a hospital operated by a health maintenance organization.
 - B. "Hospital" does not include any of the following:
 - 1. A facility licensed under Ohio R.C. Chapter 3721, a health care facility operated by the Department of Mental Health or the Department of Developmental Disabilities, a health maintenance organization that does not operate a hospital, or the office of any private, licensed health care professional, whether organized for individual or group practice;
 - 2. An institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under Section 501 of the "Internal Revenue Code of 1986", 100 Stat. 2085, 26 U.S.C. 1, as amended, and providing twenty-four-hour nursing care pursuant to the exemption in division (E) of Ohio R.C. 4723.32 from the licensing requirements of Ohio R.C. Chapter 4723.
- "Health maintenance organization" has the same meaning as in Ohio R.C. 3727.01. (ORC 2903.13)

537.04 NEGLIGENT ASSAULT.

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

537.05 AGGRAVATED MENACING.

- (a) No person shall knowingly cause another to believe that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.
- (b) Whoever violates this section is guilty of aggravated menacing. Except as otherwise provided in this subsection (b), aggravated menacing is a misdemeanor of the first degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, aggravated menacing is a felony and shall be prosecuted under appropriate State law.
- (c) As used in this section, "organization" includes an entity that is a governmental employer. (ORC 2903.21)

537.051 MENACING BY STALKING.

- (a) (1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person or the other person's family or household member, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.
 - (2) No person, through the use of any form of written communication or any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, computer system or telecommunication device shall post a message or use any intentionally written or verbal graphic gesture with purpose to do either of the following:
 - A. Violate subsection (a)(1) of this section;
 - B. Urge or incite another to commit a violation of subsection (a)(1) of this section.

- (3) No person, with sexual motivation, shall violate subsection (a)(1) or (2) of this section.
- (b) Whoever violates this section is guilty of menacing by stalking.
 - (1) Except as otherwise provided in subsections (b)(2) and (3) of this section, menacing by stalking is a misdemeanor of the first degree.
 - (2) Menacing by stalking is a felony and shall be prosecuted under appropriate State law if any of the following applies:
 - A. The offender previously has been convicted of or pleaded guilty to a violation of this section or a violation of Section 541.051.
 - B. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender made a threat of physical harm to or against the victim, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message made a threat of physical harm to or against the victim.
 - C. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender trespassed on the land or premises where the victim lives, is employed, or attends school, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message trespassed on the land or premises where the victim lives, is employed, or attends school.
 - D. The victim of the offense is a minor.
 - E. The offender has a history of violence toward the victim or any other person or a history of other violent acts toward the victim or any other person.
 - F. While committing the offense under subsection (a)(1) of this section or a violation of subsection (a)(3) of this section is based on conduct in violation of subsection (a)(1) of this section, the offender had a deadly weapon on or about the offender's person or under the offender's control. Subsection (b)(2)F. of this section does not apply in determining the penalty for a violation of subsection (a)(2) of this section or a violation of subsection (a)(3) of this section based on conduct in violation of subsection (a)(1) of this section.
 - G. At the time of the commission of the offense, the offender was the subject of a protection order issued under Ohio R.C. 2903.213 or 2903.214, regardless of whether the person to be protected under the order is the victim of the offense or another person.
 - H. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that premises, or as a result of an offense committed under subsection (a)(2) of this section, or an offense committed under subsection (a)(3) of this section based on a violation of subsection (a)(2) of this section, a third person induced by the offender's posted message caused serious physical harm to that premises, that real property, or any personal property on that premises.

- I. Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness.
- (3) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities, or duties, menacing by stalking is a felony and shall be prosecuted under appropriate State law.
- (c) Ohio R.C. 2919.271 applies in relation to a defendant charged with a violation of this section.
 - (d) As used in this section:
 - "Pattern of conduct" means two or more actions or incidents closely related (1) in time, whether or not there has been a prior conviction based on any of those actions or incidents, or two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, directed at one or more persons employed by or belonging to the same corporation, association, or other organization. Actions or incidents that prevent, obstruct, or delay the performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's, or emergency facility person's official capacity, or the posting of messages, use of intentionally written or verbal graphic gestures, or receipt of information or data through the use of any form of written communication or an electronic method of remotely transferring information, including, but not limited to, a computer, computer network, computer program, computer system, or telecommunications device, may constitute a "pattern of conduct".
 - (2) "Mental distress" means any of the following:

A. Any mental illness or condition that involves some temporary substantial incapacity;

- B. Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.
- (3) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
- (4) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.

(5) "Public official" has the same meaning as in Ohio R.C. 2921.01.

(6) "Computer", "computer network", "computer program", "computer system" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.

- (7) "Post a message" means transferring, sending, posting, publishing, disseminating or otherwise communicating, or attempting to transfer, send, post, publish, disseminate or otherwise communication, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another, or while impersonating another.
- (8) "Third person" means, in relation to conduct as described in subsection (a)(2) of this section, an individual who is neither the offender nor the victim of the conduct.
- (9) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.
- (10) "Organization" includes an entity that is a governmental employer.
- (11) "Family or household member" means any of the following:
 - A. Any of the following who is residing or has resided with the person against whom the act prohibited in subsection (a)(1) of this section is committed:
 - 1. A spouse, a person living as a spouse, or a former spouse of the person;
 - 2. A parent, a foster parent, or a child of the person, or another person related by consanguinity or affinity to the person;
 - 3. A parent or a child of a spouse, person living as a spouse, or former spouse of the person, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the person.
 - B. The natural parent of any child of whom the person against whom the act prohibited in subsection (a)(1) of this section is committed is the other natural parent or is the putative other natural parent.
- (12) "Person living as a spouse" means a person who is living or has lived with the person against whom the act prohibited in subsection (a)(1) of this section is committed in a common law marital relationship, who otherwise is cohabiting with that person, or who otherwise has cohabited with the person within five years prior to the date of the alleged commission of the act in question.
- (e) The Municipality does not need to prove in a prosecution under this section that a person requested or received psychiatric treatment, psychological treatment, or other mental health services in order to show that the person was caused mental distress as described in subsection (d)(2)B. of this section.
 - (f) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section.

- (2) Subsection (f)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.
- Subsection (f)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature. (ORC 2903.211)

537.06 MENACING.

- (a) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediately family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.
- (b) Whoever violates this section is guilty of menacing. Except as otherwise provided in this subsection (b), menacing is a misdemeanor of the fourth degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, menacing is a felony and shall be prosecuted under appropriate State law.
- (c) As used in this section, "organization" includes an entity that is a governmental employer. (ORC 2903.22)

537.07 ENDANGERING CHILDREN.

- (a) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection or support. It is not a violation of a duty of care, protection or support under this subsection when the parent, guardian, custodian or person having custody or control of a child treats the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.
- (b) No person shall abuse a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age.
 - (c) No person shall operate a vehicle in violation of Section 333.01(a) of the Traffic Code when one or more children under eighteen years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of subsection (c) hereof and a violation of Section 333.01(a) of the Traffic Code that

constitutes the basis of the charge of the violation of subsection (c) hereof. For purposes of Ohio R.C. 4511.191 to 4511.197 and all related provisions of law, a person arrested for a violation of subsection (c) hereof shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

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

- A. "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.
- B. "Vehicle" has the same meaning as in Ohio R.C. 4511.01.

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

- (1) Whoever violates subsection (a) or (b) hereof is guilty of a misdemeanor of the first degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section, Ohio R.C. 2919.22 or of any offense involving neglect, abandonment, contributing to the delinquency of or physical abuse of a child, endangering children is a felony and shall be prosecuted under appropriate State law.
- Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. Endangering children is a felony and shall be prosecuted under appropriate State law if either of the following applies:
 - A. The violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under Ohio R.C. 2919.22 or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child.
 - B. The violation results in serious physical harm to the child involved and the offender previously has been convicted of a violation of Ohio R.C. 2919.22(C) or subsection (c) hereof, Ohio R.C. 2903.06, or 2903.08, Section 2903.07 as it existed prior to March 23, 2000, or Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section.
- (3) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (d)(2) hereof, or pursuant to any other provision of law, the court also may impose upon the offender any of the sanctions provided under Ohio R.C. 2919.22(E)(5)(d).
- (e) (1) If a person violates subsection (c) hereof and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of subsection (c) hereof for each of the children, but the court may sentence the offender for only one of the violations.
 - (2) A. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, both of the following apply:

- 1. For purposes of the provisions of the Traffic Code penalty that set forth the penalties and sanctions for a violation of Section 333.01(a) of the Traffic Code, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute a violation of Section 333.01(a) of the Traffic Code.
- 2. For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code and that is not described in subsection (e)(2)A.1. hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall constitute a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code.
- B. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof and the person also is convicted of or pleads guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code, a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code. (ORC 2919.22)

537.08 UNLAWFUL RESTRAINT.

- (a) No person, without privilege to do so, shall knowingly restrain another of the other person's liberty.
- (b) No person, without privilege to do so and with a sexual motivation, shall knowingly restrain another of the other person's liberty.
- (c) Whoever violates this section is guilty of unlawful restraint, a misdemeanor of the third degree.
- (d) As used in this section, "sexual motivation" has the same meaning as in Ohio R.C. 2971.01. (ORC 2905.03)

537.09 COERCION.

- (a) No person, with purpose to coerce another into taking or refraining from action concerning which the other person has a legal freedom of choice, shall do any of the following:
 - (1) Threaten to commit any offense;
 - (2) Utter or threaten any calumny against any person;
 - Expose or threaten to expose any matter tending to subject any person to hatred, contempt or ridicule, to damage any person's personal or business repute, or to impair any person's credit;
 - (4) Institute or threaten criminal proceedings against any person;
 - (5) Take or withhold, or threaten to take or withhold official action, or cause or threaten to cause official action to be taken or withheld.

- (b) Subsections (a)(4) and (5) hereof shall not be construed to prohibit a prosecutor or court from doing any of the following in good faith and in the interest of justice:
 - (1) Offering or agreeing to grant, or granting immunity from prosecution pursuant to Ohio R.C. 2945.44;
 - (2) In return for a plea of guilty to one or more offenses charged or to one or more other or lesser offenses, or in return for the testimony of the accused in a case to which the accused is not a party, offering or agreeing to dismiss, or dismissing one or more charges pending against an accused, or offering or agreeing to impose, or imposing a certain sentence or modification of sentence;
 - (3) Imposing community control sanction on certain conditions, including without limitation requiring the offender to make restitution or redress to the victim of the offense.
- (c) It is an affirmative defense to a charge under subsection (a)(3), (4) or (5) hereof that the actor's conduct was a reasonable response to the circumstances that occasioned it, and that the actor's purpose was limited to any of the following:
 - (1) Compelling another to refrain from misconduct or to desist from further misconduct:
 - (2) Preventing or redressing a wrong or injustice;
 - Preventing another from taking action for which the actor reasonably believed the other person to be disqualified;
 - (4) Compelling another to take action that the actor reasonably believed the other person to be under a duty to take.
- (d) Whoever violates this section is guilty of coercion, a misdemeanor of the second degree.
 - (e) As used in this section:
 - (1) "Threat" includes a direct threat and a threat by innuendo.
 - "Community control sanction" has the same meaning as in Ohio R.C. 2929.01. (ORC 2905.12)

537.10 TELECOMMUNICATION HARASSMENT.

- (a) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:
 - (1) Makes the telecommunication with purpose to harass, intimidate, or abuse, any person at the premises to which the telecommunication is made, whether or not actual communication takes place between the caller and a recipient;
 - (2) Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made;

- (3) During the telecommunication, violates Ohio R.C. 2903.21;
- Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged;
- (5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any person at those premises.
- (6) Knowingly makes any comment, request, suggestion, or proposal to the recipient of the telecommunication that is threatening, intimidating, menacing, coercive, or obscene with the intent to abuse, threaten or harass the recipient;
- (7) Without a lawful business purpose, knowingly interrupts the telecommunication service of any person;
- (8) Without a lawful business purpose, knowingly transmits to any person, regardless of whether the telecommunication is heard in its entirety, any file, document or other communication that prevents that person from using the person's telephone service or electronic communication device;
- (9) Knowingly makes any false statement concerning the death, injury, illness, disfigurement, reputation, indecent conduct, or criminal conduct of the recipient of the telecommunication or family or household member of the recipient with purpose to abuse, threaten, intimidate, or harass the recipient;
- (10) Knowingly incites another person through a telecommunication or other means to harass or participate in the harassment of a person;
- Knowingly alarms the recipient by making a telecommunication without a lawful purpose at an hour or hours known to be inconvenient to the recipient and in an offensive or repetitive manner.
- (b) (1) No person shall make or cause to be made a telecommunication, or permit a telecommunication to be made from a telecommunications device under the person's control, with purpose to abuse, threaten, or harass another person.
 - (2) No person shall knowingly post a text or audio statement or an image on an internet web site or web page for the purpose of abusing, threatening, or harassing another person.
- (c) (1) Whoever violates this section is guilty of telecommunication harassment.
 - A violation of subsections (a)(1), (2), (3), (5), (6), (7), (8), (9), (10), or (11) or (b) hereof is a misdemeanor of the first degree on a first offense. Each subsequent offense is a felony and shall be prosecuted under appropriate State law.
 - (3) Whoever violates subsection (a)(4) hereof is guilty of a misdemeanor of the first degree for a first offense. For each subsequent offense or if a violation of subsection (a)(4) hereof results in economic harm of one thousand dollars (\$1,000) or more, a violation of subsection (a)(4) hereof is a felony and shall be prosecuted under appropriate State law.

- No cause of action may be asserted in any court of this State against any provider of a telecommunications service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, or information service, or against any officer, employee, or agent of a telecommunication service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, or information service, for any injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section. A provider of a telecommunications service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, or information service, or an officer, employee, or agent of a telecommunications service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, of information service, is immune from any civil or criminal liability for injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section.
 - (e) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electric method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that the person believes is, or will be sent, in violation of this section.
 - Subsection (e)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.
 - (3) Subsection (e)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature.
 - (4) A provider or user of an interactive computer service, as defined in Section 230 of Title 47 of the United States Code, shall neither be treated as the publisher or speaker of any information provided by another information content provider, as defined in Section 230 of Title 47 of the United States Code, nor held civilly or criminally liable for the creation or development of information provided by another information content provider, as defined in Section 230 of Title 47 of the United States Code. Nothing in this subsection shall be construed to protect a person from liability to the extent that the person developed or created any content in violation of this section.

- (f) Subsections (a)(5) to (11) and (b)(2) of this section do not apply to a person who, while employed or contracted by a newspaper, magazine, press association, news agency, news wire service, cable channel or cable operator, or radio or television station, is gathering, processing, transmitting, compiling, editing or disseminating information for the general public, within the scope of the person's employment in that capacity or the person's contractual authority in that capacity.
 - (g) As used in this section:
 - "Economic harm" means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" includes, but is not limited to, all of the following:
 - A. All wages, salaries, or other compensation lost as a result of the criminal conduct:
 - B. The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
 - C. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
 - D. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.
 - (2) "Caller" means the person described in subsection (a) hereof who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.
 - "Telecommunication" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
 - (4) "Sexual activity" has the same meaning as in Ohio R.C. 2907.01.
 - (5) "Family or household member" means any of the following:
 - A. Any of the following who is residing or has resided with the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed:
 - 1. A spouse, a person living as a spouse, or a former spouse of the recipient;
 - 2. A parent, a foster parent, or a child of the recipient, or another person related by consanguinity or affinity to the recipient:
 - 3.. A parent or a child of a spouse, person living as a spouse, or former spouse of the recipient, or anther person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the recipient.
 - B. The natural parent of any child of whom the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed is the other natural parent or is the putative other natural parent.
 - (6) "Person living as a spouse" means a person who is living or has lived with the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed in a common law marital relationship, who otherwise is cohabiting with the recipient, or who otherwise has cohabited with the recipient within five years prior to the date of the alleged commission of the act in question.
 - (7) "Cable operator" has the same meaning as in Ohio R.C. 1332.21.

(h) Nothing in this section prohibits a person from making a telecommunication call to a debtor that is in compliance with the "Fair Debt Collection Practices Act", 91 Stat. 874 (1977), 15 U.S.C. 1692, as amended, or the "Telephone Consumer Protection Act", 105 Stat. 2395 (1991), 47 U.S.C. 227, as amended. (ORC 2917.21)

537.11 THREATENING OR HARASSING TELEPHONE CALLS.

(EDITOR'S NOTE: Former Ohio R.C. 4931.31 from which Section 537.11 was derived was repealed by Senate Bill 162, effective September 13, 2010. See now Section 537.10 "Telecommunication Harassment".)

537.12 MISUSE OF 9-1-1 SYSTEM.

- (a) "9-1-1 system" means a system through which individuals can request emergency service using the telephone number 9-1-1. (ORC 128.01)
- (b) No person shall knowingly use the telephone number of the 9-1-1 system established under Ohio R.C. Chapter 128 to report an emergency if he knows that no emergency exists.
- (c) No person shall knowingly use a 9-1-1 system for a purpose other than obtaining emergency service.
- (d) No person shall disclose or use any information concerning telephone numbers, addresses, or names obtained from the data base that serves the public safety answering point of a 9-1-1 system established under Ohio R.C. Chapter 128, except for any of the following purposes or under any of the following circumstances:
 - (1) For the purpose of the 9-1-1 system;
 - (2) For the purpose of responding to an emergency call to an emergency service provider;
 - (3) In the circumstance of the inadvertent disclosure of such information due solely to technology of the wireline telephone network portion of the 9-1-1 system not allowing access to the data base to be restricted to 9-1-1 specific answering lines at a public safety answering point;
 - (4) In the circumstance of access to a data base being given by a telephone company that is a wireline service provider to a public utility or municipal utility in handling customer calls in times of public emergency or service outages. The charge, terms, and conditions for the disclosure or use of such information for the purpose of such access to a data base shall be subject to the jurisdiction of the steering committee.
 - (5) In the circumstance of access to a data base given by a telephone company that is a wireline service provider to a state and local government in warning of a public emergency, as determined by the steering committee. The charge, terms, and conditions for the disclosure or use of that information for the purpose of access to a data base is subject to the jurisdiction of the steering committee.

 (ORC 128.32)
 - (e) (1) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree.
 - Whoever violates subsection (c) or (d) hereof is guilty of a misdemeanor of the fourth degree on a first offense. For each subsequent offense such person is guilty of a felony and shall be prosecuted under appropriate State law. (ORC 128.99)

537.13 ADULTERATING OF OR FURNISHING ADULTERATED FOOD OR CONFECTION.

- (a) No person shall do either of the following, knowingly or having reasonable cause to believe that any person may suffer physical harm or be seriously inconvenienced or annoyed thereby:
 - (1) Place a pin, needle, razor blade, glass, laxative, drug of abuse, or other harmful or hazardous object or substance in any food or confection;
 - (2) Furnish to any person any food or confection which has been adulterated in violation of subsection (a)(1) hereof. (ORC 3716.11)
- (b) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 3716.99(C))

537.14 DOMESTIC VIOLENCE.

- (a) No person shall knowingly cause or attempt to cause physical harm to a family or household member.
- (b) No person shall recklessly cause serious physical harm to a family or household member.
- (c) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.
 - (d) (1) Whoever violates this section is guilty of domestic violence.
 - (2) Except as otherwise provided in subsection (d)(3) to (5) of this section, a violation of subsection (c) of this section is a misdemeanor of the fourth degree, and a violation of subsection (a) or (b) of this section is a misdemeanor of the first degree.
 - Except as otherwise provided in subsection (d)(4) of this section, if the (3) offender previously has pleaded guilty to or been convicted of domestic violence, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to domestic violence, a violation of Ohio R.C. 2903.14, 2909.06, 2909.07, 2911.12, 2911.211, or 2919.22 if the victim of the violation was a family or household member at the time of the violation, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to any of those sections if the victim of the violation was a family or household member at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the commission of the offense, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate state law, and a violation of subsection (c) of this section is a misdemeanor of the second degree.
 - (4) If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or more violations or offenses of the type described in subsection (d)(3) of this section involving a person who was a family or household member at the time of the violations or offenses, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate state law, and a violation of subsection (c) of this section is a misdemeanor of the first degree.

- (5) Except as otherwise provided in subsection (d)(3) or (4) of this section, if the offender knew that the victim of the violation was pregnant at the time of the violation, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate State law, and a violation of subsection (c) of this section is a misdemeanor of the third degree.
- (e) Notwithstanding any provision of law to the contrary, no court or unit of local government shall charge any fee, cost, deposit, or money in connection with the filing of charges against a person alleging that the person violated this section or in connection with the prosecution of any charges so filed.
 - (f) As used in this section:
 - (1) "Family or household member" means any of the following:
 - A. Any of the following who is residing or has resided with the offender:
 - 1. A spouse, a person living as a spouse or a former spouse of the offender;
 - 2. A parent, a foster parent or a child of the offender, or another person related by consanguinity or affinity to the offender:
 - 3. A parent, or a child of a spouse, person living as a spouse, or former spouse of the offender; or another person related by consanguinity or affinity to a spouse, person living as a spouse or former spouse of the offender.

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

- (2) "Person living as a spouse" means a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question. (ORC 2919.25)
- (g) The same relief available under the Ohio Revised Code for filing a complaint for violation of Ohio R.C. 2919.25 shall be available for filing a complaint for violation of this section.

537.15 TEMPORARY PROTECTION ORDER.

- (a) No person shall recklessly violate the terms of any of the following:
 - (1) A protection order issued or consent agreement approved pursuant to Ohio R.C. 2919.26 or 3113.31;
 - (2) A protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214;
 - (3) A protection order issued by a court of another state.
- (b) (1) Whoever violates this section is guilty of violating a protection order.
 - (2) Except as otherwise provided in subsection (b)(3) of this section, violating a protection order is a misdemeanor of the first degree.
 - Violating a protection order is a felony and shall be prosecuted under State law if the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for any of the following:
 - A. A violation of a protection order issued or consent agreement approved pursuant to Ohio R.C. 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31;

- B. Two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211 or any combination of those offenses that involved the same person who is the subject of the protection order or consent agreement;
- C. One or more violations of this section.
- (4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony and shall be prosecuted under appropriate state law.
- If the protection order violated by the offender was an order issued (5)pursuant to Ohio R.C. 2151.34 or 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this subsection that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device. If the court determines that the offender is indigent and subject to the maximum amount allowable and the rules promulgated by the Attorney General under Ohio R.C. 2903.214, the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device may be paid out of funds from the reparations fund created pursuant to Ohio R.C. 2743.191. The total amount paid from the reparations fund created pursuant to Ohio R.C. 2743.191 for electronic monitoring under this section and Ohio R.C. 2151.34 and 2903.214 shall not exceed three hundred thousand dollars per year.
- (c) It is an affirmative defense to a charge under subsection (a)(3) of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith and credit by a court of this State or that it is not entitled to full faith and credit under 18 U.S.C. 2265(c).
- (d) In a prosecution for a violation of this section, it is not necessary for the prosecution to prove that the protection order or consent agreement was served on the defendant if the prosecution proves that the defendant was shown the protection order or consent agreement or a copy of either or a judge, magistrate, or law enforcement officer informed the defendant that a protection order or consent agreement had been issued, and proves that the defendant recklessly violated the terms of the order or agreement.
- (e) As used in this section, "protection order issued by a court of another state" means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition or motion filed by or on behalf of a person seeking protection. "Protection order issued by a court of another state" does not include an order for support or for custody of a child. (ORC 2919.27)

537.16 ILLEGAL DISTRIBUTION OF CIGARETTES, OTHER TOBACCO PRODUCTS, OR ALTERNATE NICOTINE PRODUCTS; TRANSACTION SCANS.

- (a) <u>Illegal Distribution of Cigarettes, Other Tobacco Products, or Alternative Nicotine</u> Products.
 - (1) As used in this section:
 - A. "Age verification." A service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is twenty-one years of age or older.

B. "Alternative nicotine product."

- 1. Subject to subsection (a)(1)B.2. of this section, an electronic smoking device, vapor product, or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving, or inhaling.
- 2. The phrase does not include any of the following:

a. Any cigarette or other tobacco product;

- b. Any product that is a "drug" as that term is defined in 21 U.S.C. 321(g)(1);
- c. Any product that is a "device" as that term is defined in 21 U.S.C. 321(h);
- d. Any product that is a "combination product" as described in 21 U.S.C. 353(g).
- C. "Cigarette." Includes clove cigarettes and hand-rolled cigarettes.
- D. "Distribute." Means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.
- E. "Electronic smoking device." Means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device including an electronic cigarette, electronic cigar, electronic hookah, vaping pen, or electronic pipe. The phrase includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).
- F. "Proof of age." Means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under Ohio R.C. 4507.50 to 4507.52 that shows that a person is eighteen years of age or older.

- G. "Tobacco product." Means any product that is made or derived from tobacco or that contains any form of nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. The phrase also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).
- H. "Vapor product." Means a product, other than a cigarette or other tobacco product as defined in Ohio R.C. Chapter 5743, that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. The phrase includes any component, part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g). The phrase includes any product containing nicotine, regardless of concentration.
- I. "Vending machine." Has the same meaning as "coin machine" in Ohio R.C. 2913.01.
- (2) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, and no other person shall do any of the following:
 - A. Give, sell, or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any person under twenty-one years of age;
 - B. Give away, sell, or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a legibly printed sign in letters at least one-half inch high stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under twenty-one years of age is prohibited by law;
 - C. Knowingly furnish any false information regarding the name, age, or other identification of any person under twenty-one years of age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that person;
 - D. Manufacture, sell, or distribute in this state any pack or other container of cigarettes containing fewer than twenty cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;

- E. Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;
- F. Give, sell, or otherwise distribute alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification.
- (3) No person shall sell or offer to sell cigarettes, other tobacco products, or alternative nicotine products by or from a vending machine, except in the following locations:
 - A. An area within a factory, business, office, or other place not open to the general public;
 - B. An area to which persons under twenty-one years of age are not generally permitted access;
 - C. Any other place not identified in subsection (a)(3)A. or B. of this section, upon all of the following conditions:
 - The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes, other tobacco product, and alternative nicotine product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.
 - 2. The vending machine is inaccessible to the public when the place is closed.
 - 3. A clearly visible notice is posted in the area where the vending machine is located that states the following in letters that are legibly printed and at least one-half inch high: "It is illegal for any person under the age of twenty-one to purchase tobacco or alternative nicotine products."
- (4) The following are affirmative defenses to a charge under subsection (a)(2)A. of this section:
 - A. The person under twenty-one years of age was accompanied by a parent, spouse who is twenty-one years of age or older, or legal guardian of the person under twenty-one years of age.
 - B. The person who gave, sold, or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under twenty-one years of age under subsection (a)(2)A. of this section is a parent, spouse who is twenty-one years of age or older, or legal guardian of the person under twenty-one years of age.
- (5) It is not a violation of subsection (a)(2)A. or B. of this section for a person to give or otherwise distribute to a person under twenty-one years of age cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes while the person under twenty-one years of age is participating in a research protocol if all of the following apply:

- A. The parent, guardian, or legal custodian of the person under twenty-one years of age has consented in writing to the person under twenty-one years of age participating in the research protocol.
- B. An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol.
- C. The person under twenty-one years of age is participating in the research protocol at the facility or location specified in the research protocol.
- (6) A. Whoever violates subsection (a)(2)A., B., D., E., or F. or (a)(3) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (a)(2)A., B., D., E., or F. or (a)(3) of this section or a substantially equivalent state law or municipal ordinance, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
 - B. Whoever violates subsection (a)(2)C. of this section is guilty of permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (a)(2)C. of this section or a substantially equivalent state law or municipal ordinance, permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
- (7) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a person under twenty-one years of age in violation of this section and that are used, possessed, purchased, or received by a person under twenty-one years of age in violation of Ohio R.C. 2151.87 are subject to seizure and forfeiture as contraband under Ohio R.C. Chapter 2981. (ORC 2927.02)

(b) <u>Transaction Scan.</u>

- (1) For the purpose of this subsection (b) and subsection (c) of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
 - A. "Card holder." Any person who presents a driver's or commercial driver's license or an identification card to a seller, or an agent or employee of a seller, to purchase or receive cigarettes, other tobacco products, or alternative nicotine products from a seller, agent or employee.
 - B. "Identification card." An identification card issued under Ohio R.C. 4507.50 to 4507.52.

- C. "Seller." A seller of cigarettes, other tobacco products, or alternative nicotine products and includes any person whose gift of or other distribution of cigarettes, other tobacco products, or alternative nicotine products is subject to the prohibitions of subsection (a) of this section.
- D. "Transaction scan." The process by which a seller or an agent or employee of a seller checks, by means of a transaction scan device, the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for purchasing or receiving cigarettes, other tobacco products, or alternative nicotine products.
- E. "Transaction scan device." Any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver's or commercial driver's license or an identification card.
- (2) A. A seller or an agent or employee of a seller may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or commercial driver's license or identification card presented by a card holder as a condition for selling, giving away or otherwise distributing to the card holder cigarettes, other tobacco products, or alternative nicotine products.
 - B. If the information deciphered by the transaction scan performed under subsection (b)(2)A. of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the seller nor any agent or employee of the seller shall sell, give away or otherwise distribute any cigarettes, other tobacco products, or alternative nicotine products to the card holder.
 - C. Subsection (b)(2)A. of this section does not preclude a seller or an agent or employee of a seller from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or identification card, if the document includes a bar code or magnetic strip that may be scanned by the device, as a condition for selling, giving away or otherwise distributing cigarettes, other tobacco products, or alternative nicotine products to the person presenting the document.
- Rules adopted by the Registrar of Motor Vehicles under Ohio R.C. 4301.61(C) apply to the use of transaction scan devices for purposes of this subsection (b) and subsection (c) of this section.
- (4) A. No seller or agent or employee of a seller shall electronically or mechanically record or maintain any information derived from a transaction scan, except for the following:
 - 1. The name and date of birth of the person listed on the driver's or commercial driver's license or identification card presented by the card holder;
 - 2. The expiration date and identification number of the driver's or commercial driver's license or identification card presented by the card holder.

- B. No seller or agent or employee of a seller shall use the information that is derived from a transaction scan or that is permitted to be recorded and maintained under subsection (b)(4)A. of this section, except for purposes of subsection (c) of this section.
- C. No seller or agent or employee of a seller shall use a transaction scan device for a purpose other than the purpose specified in subsection (c)(2)A. of this section.
- D. No seller or agent or employee of a seller shall sell or otherwise disseminate the information derived from a transaction scan to any third party, including but not limited to selling or otherwise disseminating that information for any marketing, advertising or promotional activities, but a seller or agent or employee of a seller may release that information pursuant to a court order or as specifically authorized by subsection (c) of this section or another section of these Codified Ordinances or the Ohio Revised Code.
- (5) Nothing in this subsection (b) or subsection (c) of this section relieves a seller or an agent or employee of a seller of any responsibility to comply with any other applicable local, state or federal laws or rules governing the sale, giving away or other distribution of cigarettes, other tobacco products, or alternative nicotine products.
- (6) Whoever violates subsection (b)(2)B. or (b)(4) of this section is guilty of engaging in an illegal tobacco product or alternative nicotine product transaction scan, and the court may impose upon the offender a civil penalty of up to one thousand dollars (\$1,000) for each violation. The Clerk of the Court shall pay each collected civil penalty to the County Treasurer for deposit into the County Treasury.

 (ORC 2927.021)

(c) <u>Affirmative Defenses.</u>

- (1) A seller or an agent or employee of a seller may not be found guilty of a charge of a violation of subsection (a) of this section in which the age of the purchaser or other recipient of cigarettes, other tobacco products, or alternative nicotine products is an element of the alleged violation, if the seller, agent or employee raises and proves as an affirmative defense that all of the following occurred:
 - A. A card holder attempting to purchase or receive cigarettes, other tobacco products, or alternative nicotine products presented a driver's or commercial driver's license or an identification card.
 - B. A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid.
 - C. The cigarettes, other tobacco products, or alternative nicotine products were sold, given away or otherwise distributed to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.
- (2) In determining whether a seller or an agent or employee of a seller has proven the affirmative defense provided by subsection (c)(1) of this section, the trier of fact in the action for the alleged violation of subsection (a) of this section shall consider any written policy that the seller has adopted and implemented and that is intended to prevent violations of subsection (a) of

this section. For purposes of subsection (c)(1)C. of this section, the trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a seller or an agent or employee of a seller to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a seller or an agent or employee of a seller from exercising reasonable diligence to determine, the following:

- A. Whether a person to whom the seller or agent or employee of a seller sells, gives away or otherwise distributes cigarettes, other tobacco products, or alternative nicotine products is twenty-one years of age or older;
- B. Whether the description and picture appearing on the driver's or commercial driver's license or identification card presented by a card holder is that of the card holder.
- (3) In any criminal action in which the affirmative defense provided by subsection (c)(1) of this section is raised, the Registrar of Motor Vehicles or a Deputy Registrar who issued an identification card under Ohio R.C. 4507.50 to 4507.52 shall be permitted to submit certified copies of the records of that issuance in lieu of the testimony of the personnel of or contractors with the Bureau of Motor Vehicles in the action. (ORC 2927.022)

(d) Shipment of Tobacco Products.

- (1) As used in this subsection (d):
 - A. "Authorized recipient of tobacco products" means a person who is:
 - 1. Licensed as a cigarette wholesale dealer under Ohio R.C. 5743.15;
 - 2. Licensed as a retail dealer as long as the person purchases cigarettes with the appropriate tax stamp affixed;
 - 3. An export warehouse proprietor as defined in Section 5702 of the Internal Revenue Code;
 - 4. An operator of a customs bonded warehouse under 19 U.S.C. 1311 or 19 U.S.C. 1555;
 - 5. An officer, employee, or agent of the federal government or of this state acting in the person's official capacity;
 - 6. A department, agency, instrumentality, or political subdivision of the federal government or of this state;
 - 7. A person having a consent for consumer shipment issued by the Tax Commissioner under Ohio R.C. 5743.71.
 - B. "Motor carrier." Has the same meaning as in Ohio R.C. 4923.01.
- The purpose of this division (d) is to prevent the sale of cigarettes to minors and to ensure compliance with the Master Settlement Agreement, as defined in Ohio R.C. 1346.01.
- (3) A. No person shall cause to be shipped any cigarettes to any person in this municipality other than an authorized recipient of tobacco products.
 - B. No motor carrier or other person shall knowingly transport cigarettes to any person in this municipality that the carrier or other person reasonably believes is not an authorized recipient of tobacco products. If cigarettes are transported to a home or residence, it shall be presumed that the motor carrier or other person knew that the person to whom the cigarettes were delivered was not an authorized recipient of tobacco products.

- (4) No person engaged in the business of selling cigarettes who ships or causes to be shipped cigarettes to any person in this municipality in any container or wrapping other than the original container or wrapping of the cigarettes shall fail to plainly and visibly mark the exterior of the container or wrapping in which the cigarettes are shipped with the words "cigarettes."
- (5) A court shall impose a fine of up to one thousand dollars (\$1,000) for each violation of subsection (d)(3)A., (d)(3)B. or (d)(4) of this section. (ORC 2927.023)

(e) Furnishing False Information to Obtain Tobacco Products.

- (1) No person who is eighteen years of age or older but younger than twentyone years of age shall knowingly furnish false information concerning that person's name, age, or other identification for the purpose of obtaining tobacco products.
- 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.

- (c) It shall be unlawful for any person age sixteen or seventeen 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 11:00 p.m. until 5:00 a.m. unless accompanied by a parent, guardian or other adult having the care and custody of the minor.
- (d) The following exceptions shall apply: On Friday and Saturday the time is extended for persons thirteen, fourteen and fifteen to 11:00 p.m. and persons sixteen and seventeen to 12:00 midnight.
- (e) It shall not be unlawful for any juvenile to travel, traverse or be upon or in any such road, street, park, public land, or public place while directly enroute to or from: public or parochial school functions, school athletic games or events, municipal functions, religious services or functions, or any other organized function such as scouts, YMCA or YWCA, or while directly in the discharge of a bona fide and necessary errand or mission for the parent or legal guardian of such juvenile.
- (f) Any juvenile taken into custody for violation of subsections (a), (b) or (c) hereof shall be placed in the following order of preference:
 - (1) Placed in the physical custody of their parent or guardian, if available, or,
 - (2) Taken to their lawful residence and placed in the custody of an adult residing therein, if available, or,
 - (3) Turned over to an officer of the Licking County Juvenile Court.
- (g) A violation and conviction of subsections (a), (b) or (c) hereof shall constitute an unruly juvenile offense as defined in Ohio R.C. 2151.022 and penalized pursuant thereto.
- (h) The parent, guardian or other adult having the care and custody of a minor who permits said minor to violate subsections (a), (b) or (c) hereof, may be charged with contributing to the unruliness of a minor as defined in Ohio R.C. 2919.24 and penalized pursuant thereto, a misdemeanor of the first degree. (Ord. 94-3053. Passed 2-6-95.)

537.20 WRONGFUL INFLUENCE OF A MINOR.

- (a) No person shall aid, abet, influence or encourage any child under the age of eighteen years and no parent or guardian of any child under the age of eighteen years shall permit any such child to:
 - (1) Violate Section 537.19.
 - (2) Be truant from home when such child has been reported as being truant from home to the police or juvenile authorities.
 - (3) Be truant from school when the laws of this State require such child's attendance in school.
- (b) Whoever violates this section is guilty of a misdemeanor of the third degree. (Ord. 78-863. Passed 10-2-78.)

537.21 INTERFERENCE WITH SCHOOL ACTIVITIES PROHIBITED.

- (a) No person shall go upon any school property within this Municipality and make or do any offensive act, utterance, gesture or display which tends to disrupt or interfere educational classes or social and athletic activities then or about to be in progress.
- (b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (Ord. 78-863. Passed 10-2-78.)

537.99 PENALTY.

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

CHAPTER 541 Property Offenses

541.01	Determining property value in arson.	541.06	Destruction of shrubs, trees or crops.
541.02	Arson.	541.07	Desecration.
541.03	Criminal damaging or	541.08	Ethnic intimidation.
	endangering.	541.09	Vehicular vandalism.
541.04	Criminal mischief.	541.10	Trespass on a place of
541.05	Criminal trespass.		public amusement.
541.051	Aggravated trespass.	541.11	Scavenging.
	•	541.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
Parents' liability for destructive acts of their
children - see Ohio R.C. 3109.09
Physical harm to property defined - see GEN. OFF. 501.01(d), (f)
Reimbursement for investigation or prosecution
costs - see GEN. OFF. 501.99(a)
Damage to sidewalks - see GEN. OFF. 521.04
Vehicle trespass - see GEN. OFF. 545.06

541.01 DETERMINING PROPERTY VALUE IN ARSON.

(a) The following criteria shall be used in determining the value of property or amount of physical harm involved in a violation of Section 541.02.

- (1) If the property is an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, the value of the property or the amount of physical harm involved is the amount that would compensate the owner for its loss.
- (2) If the property is not covered under subsection (a)(1) hereof, and the physical harm is such that the property can be restored substantially to its former condition, the amount of physical harm involved is the reasonable cost of restoring the property.
- (3) If the property is not covered under subsection (a)(1) hereof, and the physical harm is such that the property cannot be restored substantially to its former condition, the value of the property, in the case of personal property, is the cost of replacing the property with new property of like kind and quality, and in the case of real property or real property fixtures, is the difference in the fair market value of the property immediately before and immediately after the offense.

- (b) As used in this section, "fair market value" has the same meaning as in Section 545.02(c)(3).
- (c) Prima-facie evidence of the value of property, as provided in Section 545.02(d) may be used to establish the value of property pursuant to this section. (ORC 2909.11)

541.02 ARSON.

- (a) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any property of another without the other person's consent.
 - (b) (1) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any structure of another that is not an occupied structure;
 - (2) It is an affirmative defense to a charge under subsection (b)(1) of this section that the defendant acted with the consent of the other person.
- (c) Whoever violates this section is guilty of arson, a misdemeanor of the first degree. If the value of the property or the amount of physical harm involved is one thousand dollars (\$1,000) or more, arson is a felony and shall be prosecuted under appropriate State law. (ORC 2909.03)

541.03 CRIMINAL DAMAGING OR ENDANGERING.

- (a) No person shall cause, or create a substantial risk of physical harm to any property of another without the other person's consent:
 - (1) Knowingly, by any means;
 - (2) Recklessly, by means of fire, explosion, flood, poison gas, poison, radioactive material, caustic or corrosive material, or other inherently dangerous agency or substance.
- (b) Whoever violates this section is guilty of criminal damaging or endangering, a misdemeanor of the second degree. If violation of this section creates a risk of physical harm to any person, criminal damaging or endangering is a misdemeanor of the first degree. If the property involved in a violation is an aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a risk of physical harm to any person or if the property involved in a violation is an occupied aircraft, crimimal damaging or endangering is a felony and shall be prosecuted under appropriate State law. (ORC 2909.06)

541.04 CRIMINAL MISCHIEF.

- (a) No person shall:
 - (1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with either of the following:
 - A. The property of another;
 - B. One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:
 - 1. The residential real property is subject to a mortgage.
 - 2. The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this subsection, "pending" includes the time between judgment entry and confirmation of sale.

- (2) With purpose to interfere with the use or enjoyment of property of another employ a tear gas device, stink bomb, smoke generator or other device releasing a substance that is harmful or offensive to persons exposed, or that tends to cause public alarm;
- (3) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a bench mark, triangulation station, boundary marker or other survey station, monument or marker.
- (4) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;
- (5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure or personal property that is on that land.
- (6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, all as defined in Ohio R.C. 2909.01, knowingly do any of the following:
 - A. In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;
 - B. Introduce a computer contaminant into a computer, computer system, computer network, computer software or computer program.
- (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.
- "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) 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.
 - 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;

- 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) 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.)

CHAPTER 545 Theft and Fraud

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

CROSS REFERENCES

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

545.01 DEFINITIONS.

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

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

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

- (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in subsection (k)(1) hereof or a violation of Ohio R.C. 2913.41, 2913.81 or 2915.06 as it existed prior to July 1, 1996;
- (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit or fraud;

(4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (k)(1), (2) or (3) hereof.

(l) "Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use or data that is contained within a computer system or computer network.

(m) "Computer" means an electronic device that performs logical, arithmetic and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program or communication facilities that are connected or related, in a computer system or network to an electronic device of that nature.

(n) "Computer system" means a computer and related devices, whether connected or unconnected, including, but not limited to, data input, output and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.

(o) "Computer network" means a set of related and remotely connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.

(p) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.

(q) "Computer software" means computer programs, procedures and other documentation associated with the operation of a computer system.

(r) "Data" means a representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system or computer network. For purposes of Section 545.07, "data" has the additional meaning set forth in subsection (a) of that section.

(s) "Cable television service" means any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.

"Gain access" means to approach, instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or computer network.

(u) "Credit card" includes, but is not limited to, a card, code, device or other means of access to a customer's account for the purpose of obtaining money, property, labor or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller machine or a cash dispensing machine.

(v) "Electronic fund transfer" has the same meaning as in 92 Stat. 3728, 15 U.S.C.A. 1693a, as amended.

(w) "Rented property" means personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property, within any applicable minimum or maximum term; and the amount of consideration generally is determined by the duration of possession of the property.

(x) "Telecommunication" means the origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence of intelligence or any nature over any communications system by any method, including, but not limited to, a fiber optic, electronic, magnetic,

optical, digital, or analog method.

(y) "Telecommunications device" means any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.

(z) "Telecommunications service" means the providing, allowing, facilitating, or generating of any form of telecommunication through the use of a

telecommunications device over a telecommunications system.

(aa) "Counterfeit telecommunications device" means a telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. "Counterfeit telecommunications device" includes, but is not limited to, a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.

(bb) (1) "Information service" means, subject to subsection (bb)(2) hereof, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including, but not limited to, electronic publishing.

- "Information service" does not include any use of a capability of a type described in subsection (bb)(1) hereof for the management, control, or operation of a telecommunications system or the management of a telecommunications service.
- (cc) "Elderly person" means a person who is sixty-five years of age or older.
- (dd) "Disabled adult" means a person who is eighteen years of age or older and has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least twelve months without any present indication of recovery from the impairment, or who is eighteen years of age or older and has been certified as permanently and totally disabled by an agency of this State or the United States that has the function of so classifying persons.
- (ee) "Firearm" and "dangerous ordnance" have the same meanings as in Ohio R.C. 2923.11.
- (ff) "Motor vehicle" has the same meaning as in Ohio R.C. 4501.01.
- (gg) "Dangerous drug" has the same meaning as in Ohio R.C. 4729.01.
- (hh) "Drug abuse offense" has the same meaning as in Ohio R.C. 2925.01. (ORC 2913.01)

- (ii) "Police dog or horse" has the same meaning as in Ohio R.C. 2921.321.
- "Anhydrous ammonia" is a compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described in this subsection. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH3). Anhydrous ammonia by weight is fourteen parts nitrogen to three parts hydrogen, which is approximately eighty-two per cent nitrogen to eighteen per cent hydrogen
- (kk) "Assistance dog" has the same meaning as in Ohio R.C. 955.011.
- (II) "Active duty service member" means any member of the armed forces of the United States performing active duty under Title 10 of the United States Code. (ORC 2913.01)

545.02 DETERMINING PROPERTY VALUE IN THEFT OFFENSE.

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

- (3) In prosecuting a single offense under subsection (b)(1) or (2), it is not necessary to separately allege and prove each offense in the series. Rather, it is sufficient to allege and prove that the offender, within a given span of time, committed one or more theft offenses in the offender's same employment, capacity, or relationship to another as described in subsection (b)(1) of this section or that involve a common course of conduct to defraud multiple victims or a scheme or course of conduct as described in subsection (b)(2) of this section. While it is not necessary to separately allege and prove each offense in the series in order to prosecute a single offense under subsection (b)(1) or (2) hereof, it remains necessary in prosecuting them as a single offense to prove the aggregate value of the property or services in order to meet the requisite statutory offense level sought by the prosecution.
- (c) The following criteria shall be used in determining the value of property or services involved in a theft offense:
 - (1) The value of an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that has intrinsic worth to its owner and that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, is the amount that would compensate the owner for its loss.
 - (2) The value of personal effects and household goods, and of materials, supplies, equipment and fixtures used in the profession, business, trade, occupation or avocation of its owner, which property is not covered under subsection (c)(1) hereof, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing the property with new property of like kind and quality.
 - (3) The value of any real or personal property that is not covered under subsections (c)(1) or (2) hereof, and the value of services, is the fair market value of the property or services. As used in this section, "fair market value" is the money consideration that a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.
- (d) Without limitation on the evidence that may be used to establish the value of property or services involved in a theft offense:
 - (1) When the property involved is personal property held for sale at wholesale or retail, the price at which the property was held for sale is prima-facie evidence of its value.
 - (2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest market quotation prior to the offense, is prima-facie evidence of the value of the security or commodity.
 - (3) When the property involved is livestock, poultry or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima-facie evidence of the value of the livestock, poultry or products.
 - (4) When the property involved is a negotiable instrument, the face value is prima-facie evidence of the value of the instrument.

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

545.03 PROPERTY EXCEPTIONS AS FELONY OFFENSE.

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

- (a) A credit card;
- (b) A printed form for a check or other negotiable instrument, that on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and that has not been executed by the drawer or maker or on which the amount is blank;
- (c) A 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.
 - "Museum" means any public or private nonprofit institution that is permanently organized for primarily educational or aesthetic purposes, owns or borrows objects or items of public interest, and cares for and exhibits to the public the objects or items.
 - (3) "Pretrial diversion program" means a rehabilitative, educational program designed to reduce recidivism and promote personal responsibility that is at least four hours in length and that has been approved by any court in this State. (ORC 2935.041)

545.05 PETTY THEFT.

- (a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:
 - (1) Without the consent of the owner or person authorized to give consent;
 - Beyond the scope of the express or implied consent of the owner or person authorized to give consent:
 - (3) By deception;
 - (4) By threat;
 - (5) By intimidation.
- (b) Whoever violates this section is guilty of petty theft, a misdemeanor of the first degree. Petty theft is a felony and shall be prosecuted under appropriate State law if:
 - (1) The value of the property or services stolen is one thousand dollars (\$1,000) or more; or
 - (2) The victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, or
 - (3) The property stolen is a firearm or dangerous ordnance, or
 - (4) The property stolen is a motor vehicle, or
 - (5) The property stolen is any dangerous drug, or
 - (6) The property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog, or
 - (7) The property stolen is anhydrous ammonia, or
 - (8) The property stolen is a special purpose article as defined in Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio R.C. 4737.012.
- (c) In addition to the penalties described in subsection (b) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:
 - (1) Unless subsection (c)(2) of this section applies, suspend for not more than six months the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;
 - (2) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to subsection (c)(1) of this section, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in Ohio R.C. 4510.02(A)(7), provided that the suspension shall be for at least six months.
 - (3) The court, in lieu of suspending the offender's driver's or commercial driver's license, probationary driver's license, temporary instruction permit, or nonresident operating privilege pursuant to subsections (c)(1) or (2) of this section, instead may require the offender to perform community service for a number of hours determined by the court.
- (d) In addition to the penalties described in subsection (b) hereof, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to Ohio R.C. 2929.18 or 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing

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

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

545.06 UNAUTHORIZED USE OF A VEHICLE; VEHICLE TRESPASS.

- (a) No person shall knowingly use or operate an aircraft, motor vehicle, motorcycle, motorboat or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.
- (b) This section does not apply to property removed from the State or if possession is kept for more than forty-eight hours.
 - (c) The following are affirmative defenses to a charge under this section:
 - (1) At the time of the alleged offense, the actor, though mistaken, reasonably believed that the actor was authorized to use or operate the property.
 - At the time of the alleged offense, the actor reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.
- (d) No person shall knowingly enter into or upon a motor vehicle, motorcycle or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.
- (e) Whoever violates subsection (a) hereof is guilty of unauthorized use of a vehicle, a misdemeanor of the first degree. If the victim of the offense is an elderly person or disabled adult and if the victim incurs a loss as a result of the violation, a violation of subsection (a) hereof is a felony and shall be prosecuted under appropriate State law. (ORC 2913.03)
- (f) Whoever violates subsection (d) hereof is guilty of vehicle trespass, a misdemeanor of the fourth degree.

545.07 INSURANCE FRAUD.

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

- (4) "Policy" means a policy, certificate, contract or plan that is issued by an insurer.
- (5) "Statement" includes, but is not limited to, any notice, letter or memorandum; proof of loss; bill of lading; receipt for payment; invoice, account or other financial statement; estimate of property damage; bill for services; diagnosis or prognosis; prescription; hospital, medical or dental chart or other record; X-Ray, photograph, videotape or movie film; test result; other evidence of loss, injury or expense; computer-generated document; and data in any form.
- (b) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall do either of the following:
 - (1) Present to, or cause to be presented to, an insurer any written or oral statement that is part of, or in support of, an application for insurance, a claim for payment pursuant to a policy or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive;
 - Assist, aid, abet, solicit, procure or conspire with another to prepare or make any written or oral statement that is intended to be presented to an insurer as part of, or in support of, an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive.
- (c) Whoever violates this section is guilty of insurance fraud a misdemeanor of the first degree. If the amount of the claim that is false or deceptive is one thousand dollars (\$1,000) or more, insurance fraud is a felony and shall be prosecuted under appropriate State law.
- (d) This section shall not be construed to abrogate, waive or modify Ohio R.C. 2317.02(A). (ORC 2913.47)

545.08 UNAUTHORIZED USE OF PROPERTY.

- (a) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.
- (b) The affirmative defenses contained in Section 545.06(c) are affirmative defenses to a charge under this section.
- (c) Whoever violates this section is guilty of unauthorized use of property. Except as provided in subsection (d) hereof, unauthorized use of property is a misdemeanor of the fourth degree.
- (d) If unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, unauthorized use of property is a misdemeanor of the first degree. Unauthorized use of property is a felony and shall be prosecuted under appropriate State law if:
 - (1) Unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, and if the value of the property is one thousand dollars (\$1,000) or more; or
 - (2) If the victim of the offense is an elderly person or disabled adult. (ORC 2913.04)

545.09 PASSING BAD CHECKS.

- (a) As used in this section:
 - (1) "Check" includes any form of debit from a demand deposit account, including, but not limited to any of the following:

A. A check, bill of exchange, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument;

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

545.10 MISUSE OF CREDIT CARDS.

- (a) No person shall do any of the following:
 - (1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;
 - (2) Knowingly buy or sell a credit card from or to a person other than the issuer
 - (3) As an officer, employee, or appointee of a political subdivision or as a public servant as defined under Section 525.01, knowingly misuse a credit card account held by a political subdivision.
- (b) No person, with purpose to defraud, shall do any of the following:

(1) Obtain control over a credit card as security for a debt;

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

545.11 MAKING OR USING SLUGS.

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

545.12 TAMPERING WITH COIN MACHINES.

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

545.13 CRIMINAL SIMULATION.

- (a) No person, with purpose to defraud, or knowing that the person is facilitating a fraud, shall do any of the following:
 - (1) Make or alter any object so that it appears to have value because of antiquity, rarity, curiosity, source, or authorship, which it does not in fact possess;
 - Practice deception in making, retouching, editing, or reproducing any photograph, movie film, video tape, phonograph record, or recording tape;
 - (3) Falsely or fraudulently make, simulate, forge, alter, or counterfeit any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303, falsely or fraudulently cause to be made, simulated, forged, altered, or counterfeited any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303, or use more than once any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303.
 - (4) Utter, or possess with purpose to utter, any object that the person knows to have been simulated as provided in subsection (a)(1), (2) or (3) of this section.
- (b) Whoever violates this section is guilty of criminal simulation, a misdemeanor of the first degree. If the loss to the victim is one thousand dollars (\$1,000) or more, criminal simulation is a felony and shall be prosecuted under appropriate State law. (ORC 2913.32)

545.14 TAMPERING WITH RECORDS.

- (a) No person, knowing the person has no privilege to do so, and with purpose to defraud or knowing that the person is facilitating a fraud, shall do any of the following:
 - (1) Falsify, destroy, remove, conceal, alter, deface or mutilate any writing, computer software, data, or record;
 - (2) Utter any writing or record, knowing it to have been tampered with as provided in subsection (a)(1) hereof.
- (b) Whoever violates this section is guilty of tampering with records, a misdemeanor of the first degree. If the violation involves data or computer software the value of which or loss to the victim is one thousand dollars (\$1,000) or more, or if the writing or record is a will unrevoked at the time of the offense, tampering with records is a felony and shall be prosecuted under appropriate State law. (ORC 2913.42)

545.15 SECURING WRITINGS BY DECEPTION.

- (a) No person, by deception, shall cause another to execute any writing that disposes of or encumbers property, or by which a pecuniary obligation is incurred.
- (b) Whoever violates this section is guilty of securing writings by deception, a misdemeanor of the first degree. Securing writings by deception is a felony and shall be prosecuted under appropriate State law if:
 - (1) The value of the property or obligation involved is one thousand dollars (\$1,000) or more; or
 - (2) The victim of the offense is an elderly person, disabled adult, active duty service member or spouse of an active duty service member. (ORC 2913.43)

545.16 PERSONATING AN OFFICER.

- (a) No person, with purpose to defraud or knowing that he is facilitating a fraud, or with purpose to induce another to purchase property or services, shall personate a law enforcement officer, or an inspector, investigator or agent of any governmental agency.
- (b) Whoever violates this section is guilty of personating an officer, a misdemeanor of the first degree. (ORC 2913.44)

545.17 DEFRAUDING CREDITORS.

- (a) No person, with purpose to defraud one or more of the person's creditors, shall do any of the following:
 - (1) Remove, conceal, destroy, encumber, convey or otherwise deal with any of the person's property.
 - (2) Misrepresent or refuse to disclose to a fiduciary appointed to administer or manage the person's affairs or estate, the existence, amount or location of any of the person's property, or any other information regarding such property that the person is legally required to furnish to the fiduciary.
- (b) Whoever violates this section is guilty of defrauding creditors, a misdemeanor of the first degree. If the value of the property involved is one thousand dollars (\$1,000) or more, defrauding creditors is a felony and shall be prosecuted under appropriate State law. (ORC 2913.45)

545.18 RECEIVING STOLEN PROPERTY.

- (a) No person shall receive, retain or dispose of property of another, knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.
- (b) It is not a defense to a charge of receiving stolen property in violation of this section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.
- (c) Whoever violates this section is guilty of receiving stolen property, a misdemeanor of the first degree. Receiving stolen property is a felony and shall be prosecuted under appropriate State law if:
 - (1) The value of the property involved is one thousand dollars (\$1,000) or more; or
 - (2) The property involved is:
 - A. Listed in Section 545.03; or
 - B. A motor vehicle as defined in Ohio R.C. 4501.01; or
 - C. A dangerous drug as defined in Ohio R.C. 4729.01.
 - D. A special purchase article as defined in Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio R.C. 4737.012. (ORC 2913.51)

545.19 POSSESSION OF CRIMINAL TOOLS.

- (a) No person shall possess or have under the person's control any substance, device, instrument, or article, with purpose to use it criminally.
 - (b) Each of the following constitutes prima-facie evidence of criminal purpose:

- (1) Possession or control of any dangerous ordnance, or the materials or parts for making dangerous ordnance, in the absence of circumstances indicating the dangerous ordnance, materials, or parts are intended for legitimate use;
- (2) Possession or control of any substance, device, instrument, or article designed or specially adapted for criminal use;
- Possession or control of any substance, device, instrument, or article commonly used for criminal purposes, under circumstances indicating the item is intended for criminal use.
- (c) Whoever violates this section is guilty of possessing criminal tools, a misdemeanor of the first degree. If the circumstances indicate that the substance, device, instrument, or article involved in the offense was intended for use in the commission of a felony, possessing criminal tools is a felony and shall be prosecuted under appropriate State law. (ORC 2923.24)

545.20 FORGERY OF IDENTIFICATION CARDS.

- (a) No person shall knowingly do either of the following:
 - (1) Forge an identification card;
 - (2) Sell or otherwise distribute a card that purports to be an identification card, knowing it to have been forged.
 - (3) As used in this section, "identification card" means a card that includes personal information or characteristics of an individual, a purpose of which is to establish the identity of the bearer described on the card, whether the words "identity," "identification," "identification card" or other similar words appear on the card.
- (b) Whoever violates subsection (a) hereof is guilty of forging identification cards or selling or distributing forged identification cards. Except as otherwise provided in this subsection, forging or selling or distributing forged identification cards is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section or Ohio R.C. 2913.31 (B), forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree and, in addition, the court shall impose upon the offender a fine of not less than two hundred fifty dollars (\$250.00). (ORC 2913.31)

545.21 IDENTITY FRAUD.

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

545.99 PENALTY.

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

CHAPTER 549 Weapons and Explosives

549.01	Definitions.	549.06	Unlawful transactions in
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	ordnance.	549.11	Defacing identification marks
			of a firearm; possessing a
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CROSS REFERENCES

See sectional histories for similar State law License or permit to possess dangerous ordnance - see Ohio R.C. 2923.18

Hunting prohibited - see GEN. OFF. 505.11

Reporting gunshot and stab wounds - see GEN. OFF. 525.05(b)

Property destruction by tear gas device, etc. - see GEN. OFF. 541.04

549.01 DEFINITIONS.

As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) (1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that

is inoperable but that can readily be rendered operable.

When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.

(c) "Handgun" means any of the following:

(1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;

(2) Any combination of parts from which a firearm of a type described in

subsection (c)(1) of this section can be assembled.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

- (e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.
- (f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall. "Sawed-off firearm" does not include any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (g) "Zip-gun" means any of the following:
 - (1) Any firearm of crude and extemporized manufacture;
 - Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
 - Any industrial tool, signalling device or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.
- (h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.
- (i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.
- (j) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.
- (k) "Dangerous ordnance" means any of the following, except as provided in subsection (l) hereof:
 - (1) Any automatic or sawed-off firearm, zip-gun or ballistic knife;
 - (2) Any explosive device or incendiary device;
 - Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclotol and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;
 - (4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;
 - (5) Any firearm muffler or suppressor;
 - (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.
- (l) "Dangerous ordnance" does not include any of the following:
 - (1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;
 - (2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon unless the firearm is an automatic or sawed-off firearm;

- (3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;
- (4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (1)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
- Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio or museum piece.
- (6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C.921(a)(4), as amended, and regulations issued under that Act.
- (7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (m) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks", as defined in Ohio R.C. 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations, including, but not limited to, the provisions of Ohio R.C. 3743.80, and the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82
- (n) "Concealed handgun license" or "license to carry a concealed handgun" means, subject to subsection (n)(2) of this section, a license or temporary emergency license to carry a concealed handgun issued under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.
 - A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.125 or a license to carry a concealed handgun issued under Ohio R.C. 2923.125 means only a license of the type that is specified in that section. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.1213, a licence to carry a concealed handgun issued under Ohio R.C. 2923.1213, or a license to carry a concealed handgun on

a temporary emergency basis means only a license of the type that is specified in Ohio R.C. 2923.1213. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.

(o) "Valid concealed handgun license" or "valid license to carry a concealed handgun" means a concealed handgun license that is currently valid, that is not under a suspension under division (A)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213, or under a suspension provision of the state other than this State in which the license was issued, and that has not been revoked under division (B)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213 or under a revocation provision of the state other than this State in which the license was issued.

(p) "Misdemeanor punishable by imprisonment for a term exceeding one year" does not include any of the following:

(1) Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulation of business practices;

(2) Any misdemeanor offense punishable by a term of imprisonment of two years or less.

- (q) "Alien registration number" means the number issued by the United States Citizenship and Immigration Services Agency that is located on the alien's permanent resident card and may also be commonly referred to as the "USCIS number" or the "alien number".
- (r) "Active duty" has the same meaning as defined in 10 U.S.C. 101. (ORC 2923.11)

549.02 CARRYING CONCEALED WEAPONS.

- (a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:
 - (1) A deadly weapon other than a handgun;
 - (2) A handgun other than a dangerous ordnance;
 - (3) A dangerous ordnance.
- (b) No person who has been issued a concealed handgun license, shall do any of the following:
 - (1) If the person is stopped for a law enforcement purpose, and is carrying a concealed handgun, fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person then is carrying a concealed handgun;
 - (2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
 - (3) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

- (c) (1) This section does not apply to any of the following:
 - A. An officer, agent or employee or this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance, or is authorized to carry handguns and is acting within the scope of the officer's, agent's or employee's duties;
 - B. Any person who is employed in this State, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801 unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. hereof does not apply to the person.
 - C. A person's transportation or storage of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;
 - D. A person's storage or possession of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in the actor's own home for any lawful purpose.
 - Subsection (a)(2) of this section does not apply to any person who, at the time of the alleged carrying or possession of a handgun, either is carrying a valid concealed handgun license or is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, unless the person knowingly is in a place described in division (B) of Ohio R.C. 2923.126.
- (d) It is an affirmative defense to a charge under subsection (a)(1) of this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:
 - (1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.
 - (2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.
 - The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.
- (e) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

- (f) Whoever violates this section is guilty of carrying concealed weapons. (1) Except as otherwise provided in this subsection or subsections (f)(2), (5) of this section, carrying concealed weapons in violation of subsection (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, if the offender previously has been convicted of a violation of this section or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law. Except as otherwise provided in subsections (f)(2), (5) and (6) of this section, if the weapon involved is a firearm and the violation of this section is committed at premises for which a D permit has been issued under Chapter 4303, of the Revised Code or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State
 - (2) Except as provided in subsection (f)(5) of this section, if a person being arrested for a violation of subsection (a)(2) of this section promptly produces a valid concealed handgun license, and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio R.C. 2923.126, the officer shall not arrest the person for a violation of that subsection. If the person is not able to promptly produce any concealed handgun license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that subsection, and the offender shall be punished as follows:

A. The offender shall be guilty of a minor misdemeanor if both of the following apply:

- 1. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.
- 2. At the time of the arrest, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- B. The offender shall be guilty of a misdemeanor and shall be fined five hundred dollars (\$500.00) if all of the following apply:
 - 1. The offender previously had been issued a concealed handgun license and that license expired within the two years immediately preceding the arrest.
 - 2. Within forty-five days after the arrest, the offender presents any type of concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Ohio R.C. 2945.71.
 - 3. At the time of the commission of the offense, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

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

- (6) If a person being arrested for a violation of subsection (a)(2) of this section is knowingly in a place described in division (B)(5) of Ohio R.C. 2923.126, and is not authorized to carry a handgun or have a handgun concealed on the person's person or concealed ready at hand under that division, the penalty shall be as follows:
 - A. Except as otherwise provided in this subsection, if the person produces a valid concealed handgun license within ten days after the arrest and has not previously been convicted or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a minor misdemeanor;
 - B. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the fourth degree;
 - C. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to two violations of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the third degree;
 - D. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to three or more violations of subsection (a)(2) of this section, or convicted of or pleaded guilty to any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is a dangerous ordnance, the person is guilty of a misdemeanor of the second degree.
- (g) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of Ohio R.C. 2923.163 applies.
- (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;

- In plain sight and secured in a rack or holder made for the purpose;
- (3) (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
- 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:
 - Fail to promptly inform any law enforcement officer who approaches the (1) 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;
 - Fail to promptly inform the employee of the unit who approaches the (2) 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.
 - (1)This section does not apply to any of the following: (c)
 - 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.
 - Subsection (a) of this section does not apply to a person who transports or (2) 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.

- Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of subsection (a) of this section is a misdemeanor of the fourth degree. Except as otherwise provided in this subsection, a violation of subsection (b)(1) or (b)(2) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2). If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in Ohio R.C. 5503.34 that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the offender's status as a licensee, a violation of subsection (b)(1) or (b)(2) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Ohio R.C. 2923.128. A violation of subsection (b)(3) or (4) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(3) or (4) of this section, a felony and shall be prosecuted under appropriate State law. In addition to any other penalty or sanction imposed for a misdemeanor violation of subsection (b)(3) or (4) of this section, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).
- (g) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of Ohio R.C. 2923.163 applies.
 - (h) As used in this section:
 - (1) "Motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.
 - (2) A. "Unloaded" means:
 - With respect to a firearm other than a firearm described in subsection (h)(2)B. of this section, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question and one of the following applies:
 - a. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.
 - b. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.
 - 2. For the purposes of subsection (h)(2)A.1.b. of this section, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:

- a. A package, box or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;
- b. A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.
- 3. For the purposes of subsection (h)(2)A. of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.
- B. "Unloaded" means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.
- "Commercial motor vehicle" has the same meaning as in Ohio R.C. 4506.25(A).
- "Motor carrier enforcement unit" means the motor carrier enforcement unit in the Department of Public Safety, Division of State Highway Patrol, that is created by Ohio R.C. 5503.34.
- (i) Subsection (h)(2) of this section does not affect the authority of a person who is carrying a valid concealed handgun license to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in that subsection, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter or Ohio R.C. Chapter 2923. A person who is carrying a valid concealed handgun license may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter or Ohio R.C. Chapter 2923. (ORC 2923.16)

549.05 FAILURE TO SECURE DANGEROUS ORDNANCE.

- (a) No person, in acquiring, possessing, carrying or using any dangerous ordnance shall negligently fail to take proper precautions:
 - (1) To secure the dangerous ordnance against theft, or against its acquisition or use by any unauthorized or incompetent person;
 - (2) To insure the safety of persons and property.
- (b) Whoever violates this section is guilty of failure to secure dangerous ordnance, a misdemeanor of the second degree. (ORC 2923.19)

549.06 UNLAWFUL TRANSACTIONS IN WEAPONS.

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

- 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:

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.

(d) (1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of this section and subject to subsection (d)(2) of this section, if the offender has not attained nineteen years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, the court shall impose upon the offender a class four suspension of the offender's probationary driver's license, restricted license, driver's license, commercial driver's license, temporary instruction permit, or probationary commercial driver's license that then is in effect from the range specified in division (A)(4) of Ohio R.C. 4510.02 and shall deny the offender the issuance of any permit or license of that type during the period of the suspension.

If the offender is not a resident of this State, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in division (A)(4) of Ohio R.C. 4510.02.

- (2) If the offender shows good cause why the court should not suspend one of the types of licenses, permits, or privileges specified in subsection (d)(1) of this section or deny the issuance of one of the temporary instruction permits specified in that subsection, the court in its discretion may choose not to impose the suspension, revocation, or denial required in that subsection, but the court, in its discretion, instead may require the offender to perform community service for a number of hours determined by the court.
- (e) As used in this section, "object that is indistinguishable from a firearm" means an object made, constructed, or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm. (ORC 2923.122)

549.11 DEFACING IDENTIFICATION MARKS OF A FIREARM; POSSESSING A DEFACED FIREARM.

- (a) No person shall do either of the following:
 - (1) Change, alter, remove, or obliterate the name of the manufacturer, model, manufacturer's serial number, or other mark or identification on a firearm.
 - (2) Possess a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on the firearm has been changed, altered, removed, or obliterated.
- (b) (1) Whoever violates subsection (a)(1) of this section is guilty of defacing identification marks of a firearm. Except as otherwise provided in this subsection, defacing identification marks of a firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(1) of this section, defacing identification marks of a firearm is a felony and shall be prosecuted under appropriate State law.
 - Whoever violates subsection (a)(2) of this section is guilty of possessing a defaced firearm. Except as otherwise provided in this subsection, possessing a defaced firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, possessing a defaced firearm is a felony and shall be prosecuted under appropriate State law. (ORC 2923.201)

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

CHAPTER 553 Railroads

553.01	Obstructing streets by	553.03	Duties of locomotive
	railroad companies.		engineer.
553.011	Obstructing streets by	553.04	Speed regulations.
	abandoning the locomotive.		Railroad vandalism.
553.02	Climbing upon railroad cars.		Grade crossing device vandalism.
		553.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law Lighting railroads - see Ohio R.C. 723.33 et seq. Power to regulate train speed - see Ohio R.C. 723.48 Vehicular homicide - see GEN. OFF. 537.02 Criminal mischief - see GEN. OFF. 541.04

553.01 OBSTRUCTING STREETS BY RAILROAD COMPANIES.

(a) No railroad company, conductor or crewman in charge of a train or car shall obstruct or permit or cause to be obstructed a public street, road or highway by permitting a railroad car, locomotive or other obstruction to remain upon or across it for longer than five minutes to the hindrance or inconvenience of travelers or a person passing along or upon such street, road or highway. No railroad company, conductor or other crewman in charge shall fail, at the end of each five minute period of obstruction of a public street, road or highway, to cause such railroad car, locomotive or other obstruction to be removed for sufficient time, not less than three minutes, to allow the passage of persons and vehicles waiting to cross.

This section does not apply to obstruction of a public street, road or highway by a continuously moving through train or caused by circumstances wholly beyond the control of the railroad company, but does apply to other obstructions, including without limitation those caused

by stopped trains and trains engaged in switching, loading or unloading operations.

Upon the filing of an affidavit or complaint for violation of this section, summons shall be issued to the conductor or other crewman in charge by personal service upon him of a citation or to the railroad company pursuant to Ohio R.C. 2935.10(B), which summons shall be served on the regular ticket or freight agent of the company in the county where the offense occurred. (Ord. 75-770. Passed 7-7-75.)

- (b) For purposes of this section, "railroad company" includes the officers, employees and agents of such company.
 - (c) Whoever violates this section is guilty of a misdemeanor of the third degree.

553.011 OBSTRUCTING STREETS BY ABANDONING THE LOCOMOTIVE.

- (a) No railroad company shall obstruct, or permit or cause to be obstructed, a public street, road, or highway, by permitting any part of a train whose crew has abandoned the locomotive to remain across it for longer than five minutes to the hindrance or inconvenience of travelers or a person passing along or upon the street, road, or highway, unless the safety of the train crew requires them to abandon the locomotive.
- (b) Upon the filing of an affidavit or complaint for violation of this section, summons shall be issued to the railroad company pursuant to Ohio R.C. 2935.10(B), which summons shall be served on the regular ticket or freight agent of the company in the county where the offense occurred. (ORC 5589.211)
- (c) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be fined five thousand dollars (\$5,000). (ORC 5589.99)

553.02 CLIMBING UPON RAILROAD CARS.

- (a) No person shall climb, jump, step or stand upon or cling or attach himself to a locomotive, engine or car upon the track of a railroad, unless in compliance with law or by permission under the rules of the corporation managing such railroad.
- (b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4999.02)

553.03 DUTIES OF LOCOMOTIVE ENGINEER.

- (a) No person in charge of a locomotive shall fail to bring the locomotive to a full stop at least 200 feet before arriving at a crossing with another track, or proceed through the crossing before signaled to do so or before the way is clear.
- (b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. If violation of this misdemeanor causes physical harm to any person, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4999.04)

553.04 SPEED REGULATIONS.

(a) No person, trustee, or receiver, or his agents, or his servants or employees, shall operate, or run or move or cause to be operated, run or moved, any locomotive, cars, or train, upon or along any railroad track within the corporate limits of the Municipality at a rate greater than 40 miles per hour for freight trains or 60 miles per hour for passenger trains across any street or public way at grade.

- (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.)

CODIFIED ORDINANCES OF PATASKALA PART SEVEN - BUSINESS REGULATION CODE

- Chap. 711. Amusement Devices.
- Chap. 713. Amusement Arcades.
- Chap. 715. Licensing of Medical Marijuana Facilities.
- Chap. 717. Garage Sales.
- Chap. 719. Mobile Food Vendors.
- Chap. 723. Junk Yards.
- Chap. 729. Outdoor Public Entertainment Activity.
- Chap. 735. Peddlers and Solicitors.
- Chap. 739. Video Service Providers.
- Chap. 745. Medical Marijuana Retail Dispensaries.

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CODIFIED ORDINANCES OF PATASKALA PART SEVEN - BUSINESS REGULATION CODE

CHAPTER 711 Amusement Devices

	Definitions.		Fee exemption.
	License requirements.		Transferability.
	Application requirements.	711.99	Penalty.
711.04	Fees.		-

CROSS REFERENCES
Gambling - see GEN. OFF. Ch. 517
Slugs - see GEN. OFF. 545.11
Tampering with coin machine - see GEN. OFF. 545.12

711.01 DEFINITIONS.

- (a) "Exhibitor" means any person owning and exhibiting or contracting or permitting any mechanical amusement device, as defined in subsection (b) herein to be installed, used and exhibited in his own place of business irrespective of the ownership of such device.
- (b) "Mechanical or electrically operated amusement device" means any machine, device or instrument which upon the insertion of a coin, token or slug, operates, or may be operated for use as a game, contest of skill or amusement of any description which in no way tends to encourage gambling. It does not include merchandise vending machines or musical machines.
- (c) "Owner" means any person having title or legal rights to any mechanical amusement device, or amusement arcade as herein defined. (Ord. 81-932. Passed 12-7-81.)

711.02 LICENSE REQUIREMENTS.

- (a) No exhibitor, owner or other person, shall install or permit the use of any mechanical amusement device, without first obtaining an exhibitor's license and registration therefor from the City Administrator.
- (b) No exhibitor, owner or other person having an interest in said license, mechanical or electrically operated device, shall be issued a license if they have been convicted in this State or any State of the United States of a crime of violence or moral turpitude. (Ord. 81-932. Passed 12-7-81.)

711.03 APPLICATION REQUIREMENTS.

Every applicant desiring to obtain any exhibitors license or licenses shall file with the City Administrator a written application stating the full name and address, including street and number of the applicant, or if more than one person, or if an association or firm, the full names of all parties interested, and their addresses including street and number. If the applicant is a club, society or corporation, the application shall contain a complete list of the officers of such club, society or corporation, with their names and addresses, including street and number, and shall also give the state in which the club, society or corporation is organized, and the names and addresses of one or more persons whom the club, society or corporation desired to designate as its manager or managers, person or persons in charge. The applicant shall also set forth the name and address of the statutory agent when applicable. The application must also state the following:

- (a) The number of coin-operated machines to be exhibited;
- (b) The address of which the devices are to be maintained;
- (c) The serial numbers, manufacturer and name of each device;
- (d) Whether the applicant has ever been engaged in operating an amusement arcade and when, where and how long in each place within five years preceding the date of application; and
- (e) The Social Security number of all parties having an interest in said license, mechanical or electrically operated device.

Upon receipt of the appropriate application and fee, the City Administrator shall refer the application to the Chief of Police who shall conduct an investigation of the application and the premises to include the proposed coin-operated amusement devices. If the Chief of Police finds that the application information is in order and that the premises and devices are in compliance with law, he shall place an appropriate designation on each machine and shall so report to the City Administrator. The City Administrator shall then issue the appropriate license(s) and the date of inspection shall be placed on the license. The Chief of Police shall make one or more additional inspections each licensed year.

(Ord. 81-932. Passed 12-7-81.)

711.04 FEES.

The fees for licenses and registration shall be paid at the time of the issuance and shall be fifty dollars (\$50.00) for one and up to, and including, four coin-operated amusement devices per year. Twenty-five dollars (\$25.00) shall be charged for each such additional device beyond four devices per year. (Ord. 2003-3480. Passed 4-21-03.)

711.05 FEE EXEMPTION.

No license fee shall be charged for coin-operated amusement devices exhibited or operated solely for the benefit of a charitable, benevolent, religious or eleemosynary institution. (Ord. 81-932. Passed 12-7-81.)

711.06 TRANSFERABILITY.

The license and registration required by this chapter shall not be transferable to any other person, except that if one device is removed from the licensed premises the Chief of Police upon notification shall issue an additional designation to the replacement device. (Ord. 81-932. Passed 12-7-81.)

711.99 PENALTY.

Any person operating in violation of the provisions of this chapter is guilty of a minor misdemeanor for a first offense. For a second or subsequent offense such person is guilty of a misdemeanor of the fourth degree. In addition thereto, two or more violations within a one-year period shall constitute valid grounds for revocation of the license. A separate offense shall be deemed committed each day during on or which an offense occurs or continues. (Ord. 81-932. Passed 12-7-81.)

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CHAPTER 713 Amusement Arcades

713.01	Purpose and findings.	713.11	Operation of arcade.
713.02	Definitions.	713.12	License revocation.
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	Corporations, trusts and	713.15	Appeal.
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713.01 PURPOSE AND FINDINGS.

- (a) <u>Purpose</u>. That the purpose of this chapter is to establish reasonable and uniform regulations to minimize and control the negative effects of amusement arcades within the City in order to promote the health, safety, and welfare of the citizens of the City. It is not the purpose or intent of this chapter to restrict or deny access to recreational and skill-based amusement machines.
- (b) <u>Findings.</u> The State of Ohio currently allows certain games of skill while games of chance are deemed illegal. It is the specific finding that games of skill operated electronically, may easily be altered to be illegal games of chance. Further, the City has a duty to its citizens to require businesses open to the public to maintain ingress and egress, to maintain adequate security where a considerable volume of cash is transacted, and otherwise operate within the bounds of the law. (Ord. 2007-3781. Passed 7-16-07.)

713.02 DEFINITIONS.

As used in this chapter, except where the context clearly indicates a different meaning:

- (a) "Amusement arcade" means any place of business where one or more skill-based amusement machines are located for the use or entertainment of persons patronizing the place of business.
- (b) "Skill-based amusement machine" means a skill-based amusement device, such as a mechanical, electronic, video, or digital device, or machine, whether or not the skill-based amusement machine requires payment for use through a coin or bill validator or other payment of consideration or value to participate in the machine's offering or to activate the machine, provided that all of the following apply:
 - (1) The machine involves a task, game, play, contest, competition, or tournament in which the player actively participates in the task, game, play, or tournament.
 - (2) The outcome of an individual's play and participation is not determined largely or wholly by chance. For purposes of this Chapter, "largely or wholly" means at least by fifty-one percent (51%).
 - (3) The outcome of play during a game is not controlled by a person not actively participating in the game.
 - (4) The machine charges a price for a task, game, play, contest, competition, or tournament.
 - All of the following apply to any machine that is operated as described in subsection (b) hereof:
 - A. As used in this chapter, "task," "game," and "play" mean one event from initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single task, game, play, contest, competition, or tournament may be awarded prizes of cash payments or for the value of winnings, credits, rewards or prepayments based on the results of play, the prizes or rewards shall be established prior to the individual placing the wager, and the individual shall be aware of what prize or reward will occur before the start of play.
 - B. Advance play for a single task, game, play, contest, competition, or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single non-contest, competition, or tournament play.
 - C. To the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament has a defined starting and ending and is open to participants in competition for scoring and ranking results toward the awarding of prizes without the payment of additional consideration.
 - No machine shall have a guessing game at the end of a successfully completed task, game, play, contest, competition, or tournament.
 - "Amusement device" does not include vending machines, pinball machines, or other arcade games that do not pay out cash or similar credits for the value of winnings, credits, rewards, or prepayments.
- (c) "Game machine" means any skill based amusement device.

- (d) "Good moral character" means not having been convicted of a crime involving moral turpitude within five years preceding the date of this application.
- (e) "Malfunction" means failure to operate in accordance with design.
- (f) "Moral turpitude" means a conviction for a theft offense, fraud, falsification, drug offense, or an offense involving gambling, or a felony.
- (g) "Operator" means any individual, corporation, or other entity conducting the business of an amusement arcade.
- (h) "Owner" means any individual, corporation or other entity owning title to any amusement device or the real property at which an amusement arcade is operated.
- (i) "Playing area" means that portion of the premises where the primary use is for customer play on amusement devices.
 (Ord. 2007-3781. Passed 7-16-07.)

713.03 OPERATION; LICENSE REQUIRED.

- (a) No individual, corporation, or other entity shall be an operator of an amusement arcade at any place of business unless such operator holds a valid amusement arcade license for the place of business where such amusement arcade is operated, issued by the City.
- (b) No individual, corporation, or other entity shall permit or cause to be permitted any skill based amusement machine, game machine, or amusement device to be operated, placed into operation, moved onto the area of play, or played, without a current and valid license issued by the City for that machine displayed thereon.
- (c) No individual, corporation, or other entity shall play any amusement device unless it is validly licensed by the City. (Ord. 2007-3781. Passed 7-16-07.)

713.04 APPLICATION INFORMATION.

The original and renewal application for an amusement arcade license and the license for each skill-based amusement machine, game machine, or an amusement device shall be upon a form prescribed by the City Administrator and shall set forth therein information such as the name and address of the operator, the address of the place of business which is to be the licensed amusement arcade, the year for which the license is sought, the number of skill-based amusement machines or amusement devices located at such place of business, the name and address of the owner of each machine, a detailed explanation of the machine operation, applicable software license authorization, player skills, and training required qualifying each machine as a game of skill, and such other information as the City Administrator reasonably requires. The application shall be signed by the operator in whose name the City licenses are to be issued as well as the owner of the real property. (Ord. 2007-3781. Passed 7-16-07.)

713.05 CORPORATIONS, TRUSTS AND PARTNERSHIPS.

- (a) If the operator filing the application for a license under this chapter is a corporation, the application shall list the names and addresses of all officers and directors and any individual, corporation or other entity owning twenty-five percent (25%) or more of the issued and outstanding shares of every class of stock of such corporation.
- (b) If the operator filing the application for a license is a partnership, the application shall list the names and addresses of all partners.

- (c) If the operator filing the application for a license is a trust, the application shall list the names and addresses of all trustees and/or co-trustees.
- (d) The listing required of any corporation, partnership, or trust shall be repeated and further repeated for any corporation, partnership or other entity who or which appears as a shareholder, trustee, co-trustee, or partner on the application. (Ord. 2007-3781. Passed 7-16-07.)

713.06 AFFIDAVIT REQUIRED.

The application for a license under this chapter shall be submitted on the forms provided by the City Administrator and be accompanied by an affidavit attesting that the operator and all employees and agents of the operation have not been convicted of a crime of moral turpitude. No person shall swear falsely in any affidavit required to be filed under this section. (Ord. 2007-3781. Passed 7-16-07.)

713.07 LICENSE ISSUANCE; EFFECTIVE PERIOD; FEE.

The City Administrator is hereby authorized to issue amusement arcade licenses and amusement and/or game machine licenses for machines that pay cash prizes or produce a ticket or card that may be exchanged for cash, or cash equivalents, in such form as he or she determines to be appropriate, for a period of up to one year, upon satisfaction of the following conditions

- The operator of the amusement arcade has properly filed the application required by this chapter. The owner of the game machines and the real property owner shall sign the application;
- (b) A fee of one thousand dollars (\$1,000) per arcade location per year has been paid;
- (c) A fee of one hundred dollars (\$100.00) per machine per month has been paid in advance annually;
- (d) The operator or any employee of the operator has not been convicted of a crime of moral turpitude within the last five years;
- (e) The City Administrator has determined that no other reasonable cause exists to deny issuance of such license;
- (f) Compliance with Section 713.09;
- (g) License fees are non-refundable except upon approval of the Council. (Ord. 2007-3781. Passed 7-16-07.)

713.08 LICENSE ADMINISTRATION.

- (a) It shall be the duty of the City Administrator, or his or her designee, to administer the licensing regulations of this chapter.
- (b) The City Administrator, or his or her designee, is hereby empowered to adopt and enforce such rules and regulations relating to any matter or thing pertaining to the issuance, administration, and enforcement of this chapter.
- (c) The burden shall rest on the owner, applicant, operator, and/or agent of the operator, owner, or applicant to timely produce the complete, accurate, and true records, documents, program source codes, or other data objects necessary to substantiate the licensing requirements of this chapter. Absent such substantiation, the decision of the City Administrator shall be final subject to Section 713.15.

- (d) A license shall be issued within forty-five days of receipt of complete application and compliance with this Chapter.
- (e) No arcade license shall be issued until all individual skill-based amusement machines or amusement devices are licensed. (Ord. 2007-3781. Passed 7-16-07.)

713.09 APPROVAL.

Each applicant, within forty-five days of submitting an application for an amusement arcade license, shall submit the following to the City Administrator:

- (a) A report prepared in accordance with the protocol established by the Attorney General of the State of Ohio stating that the specific amusement device, including but not limited to the source code, has been tested and examined under the requirements of the Ohio Revised Code and the specific amusement device is largely or wholly a game of skill.
- (b) Evidence of statutory enactment by the State of Ohio that the device is within the class of approved devices established as permissible within the State
- (c) A report must be prepared for each amusement device to be licensed. (Ord. 2007-3781. Passed 7-16-07.)

713.10 LICENSE VALIDITY AND DISPLAY.

Each license under this chapter shall be valid for only so long as the amusement arcade is operated by the operator listed on such license, at the place of business listed thereon. Each skill-based amusement machine and/or amusement device shall be valid for operation or use only so long as the game machine and/or amusement device has displayed on it a current license, or until the license is revoked by the City or until such machines are determined to be games of chance or otherwise deemed illegal by the State of Ohio or a court of competent jurisdiction. (Ord. 2007-3781. Passed 7-16-07.)

713.11 OPERATION OF ARCADE.

- (a) No person under the age of eighteen years shall be permitted on the premises.
- (b) No doors shall be locked preventing ingress or egress by members of the public while patrons are on the premises.
 - (c) The operator shall adopt and enforce a no loitering policy on the premises.
- (d) The premises of every amusement arcade shall be equipped with exterior lighting of sufficient intensity to illuminate every means of ingress and egress and adjacent parking areas.
 - (e) Each arcade shall be maintained so that it is handicap accessible throughout.
- (f) The operator shall maintain a record of each machine taken out of play for any reason, including but not limited to, machine malfunction. The record shall include, but not be limited to the following: name of operator taking the device out of play; name and address of player who last played; the amount reflected as won but not paid or lost by the arcade; a description of the malfunction; a description of how the game machine was designed to operate; time and date of removal from play; make, model, and serial number of the game machine. Said record shall be maintained on the premises for at least two years from the date of removal. Further, the record shall be available for inspection to the City Administrator, his or her agents, and designees during regular business hours.

- (g) Each operator shall maintain a record of the full name, address, telephone number, date, tax identification number, and gross value amount for each player receiving consideration or anything of value exceeding two hundred dollars (\$200.00). This record shall be filed with the City Administrator for the City at least quarterly. Further, such record shall be available for inspection by the City Administrator, his or her agents, and designees during regular business hours for a period of two years.
- (h) Each operator shall clearly post in a conspicuous place all circumstances in which a player may not "cash out," be reimbursed, or receive cash payments for the value of winnings, credits, rewards, or prepayments.
 - (i) All on premises food service shall comply with state and local health regulations.
- (j) Each operator shall conspicuously display by posting with each skill-based amusement machine the established prize or reward for each play. This information shall be posted so that the player can observe it prior to and during play.
- (k) Each operator shall make available and have on display forms as prescribed by the City Administrator for the recovery of losses pursuant to Ohio R.C. Chapter 3763.
- (l) No weapons, firearms, or dangerous ordnances are permitted on the premises. (Ord. 2007-3781. Passed 7-16-07.)

713.12 LICENSE REVOCATION.

It shall be cause for revocation of any license required under this chapter, by the issuing authority, or for non-renewal of such license, for an operator or operator's officers, directors, agents, or employees, trustee, twenty-five percent (25%) of the shareholders of an operator, or for any other person to:

- (a) Operate an amusement arcade without a valid license:
- (b) Operate or permit to be operated an amusement device or game machine without a valid license for that machine or device;
- (c) Fail to display any license required by this chapter;
- (d) Provide any false or misleading information in the material submitted during the application process:
- (e) Permit any violation of:
 - (1) An ordinance or regulation of the City or the County, including but not limited to the rules of the Department of Health; or
 - (2) Statute of the State for which a criminal penalty may be invoked.
- (f) Knowingly allow gambling on the premises;
- (g) Transfer or alter any license issued under this chapter;
- (h) Failure to comply with any provision in this chapter:
- (i) Be convicted of a crime involving moral turpitude. (Ord. 2007-3781. Passed 7-16-07.)

713.13 REVOCATION PROCESS.

(a) The City Administrator shall notify the licensee in writing, at the address of the amusement arcade, of the reason for revocation. Service shall be made by regular first class mail with proof of service or personally.

(b) When the City revokes a license, the licensee shall not be issued another license for one year from the date the revocation became effective. If the City finds, subsequent to revocation, that the basis for revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days elapsed since the date the revocation became effective. (Ord. 2007-3781. Passed 7-16-07.)

713.14 TRANSFER OF LICENSE.

- (a) An amusement arcade license is not transferable from one licensee to another or from one location to another. Any purported transfer of an amusement arcade license shall automatically and immediately revoke that license.
- (b) A skill-based amusement machine or amusement device license is not transferable from one machine or device to another or to a machine or device moved to a different location. Such transfer of a license shall automatically and immediately revoke that license. (Ord. 2007-3781. Passed 7-16-07.)

713.15 APPEAL.

Any licensee may appeal the decision of the City Administrator for the denial of the issuance of a license, the denial of a renewal of a license, or the revocation of a license. An appeal must be filed within ten days of notice of non-issuance, in writing, to City Council stating the reason for the appeal. (Ord. 2007-3781. Passed 7-16-07.)

713.16 INSPECTION.

- (a) The Police Department shall, from time to time, inspect that portion of the arcade business open to the public and licensed hereunder in order to assess the compliance with the provisions of this chapter.
- (b) The Fire Marshal and/or Zoning Inspector shall, from time to time, inspect that portion of the arcade open to the public and licensed hereunder in order to assess compliance with all applicable Fire, Building, and Zoning Code regulations. (Ord. 2007-3781. Passed 7-16-07.)

713.17 NUISANCE.

A violation of this chapter shall constitute a nuisance and is subject to civil proceedings, including an injunction, in addition to prosecution for criminal violations of the State of Ohio and the Codified Ordinances of the City. (Ord. 2007-3781. Passed 7-16-07.)

713.18 EFFECT OF PARTIAL INVALIDITY.

If any section, subsection, or clause of this chapter shall be deemed unconstitutional or otherwise invalid, the validity and enforcement of the remaining sections, subsections, and clauses shall not be affected. (Ord. 2007-3781. Passed 7-16-07.)

713.99 PENALTY.

Whosoever violates or fails to comply with any of the provisions of this chapter, for which no penalty is otherwise provided, is guilty of a second degree misdemeanor and shall be subject to the penalties set forth in Section 501.99. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs. (Ord. 2007-3781. Passed 7-16-07.)

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CHAPTER 715 Licensing of Medical Marijuana Facilities

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CROSS REFERENCES
Drug abuse - see GEN. OFF. Ch. 513
Zoning regulations - see P. & Z. Ch. 1299

715.01 DEFINITIONS.

<u>Cultivator</u>: An individual, corporation, business association or other business entity that grows, harvests, packages, and/or transports medical marijuana as authorized by Chapter 3796 of the Ohio Revised Code.

<u>Dispensary:</u> An individual, corporation, business association or other business entity that sells medical marijuana as authorized by Chapter 3796 of the Ohio Revised Code.

<u>Local Provisional License</u>: a temporary license issued by the City of Pataskala to a medical marijuana entity that establishes conditions that must be met by the medical marijuana entity before a local operating license is issued.

<u>Local Operating License:</u> a license issued by the City of Pataskala to a medical marijuana entity. A medical marijuana entity shall not operate within the City of Pataskala without a valid local operating license.

Marijuana: All parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part pf plant of that type; and every compound, manufacture, salt, derivative, mixture or preparation of a plant of that type or of its seeds or resin. Marijuana does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination.

Medical Marijuana: Marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose.

Medical Marijuana Entity: A medical marijuana cultivator or processor as authorized by Chapter 3796 of the Ohio Revised Code.

<u>Processor</u>: An individual, corporation, business association or other business entity that manufactures medical marijuana products as authorized by Chapter 3796 of the Ohio Revised Code.

<u>Testing Laboratory:</u> An individual, corporation, business association or other business entity that conducts medical and scientific research on marijuana as authorized by Chapter 3796 of the Ohio Revised Code.

Prohibited Facility: A schools, church, public library, public playground, or public park.

Valid: Not expired, suspended, or revoked. (Ord. 2017-4291. Passed 7-24-17.)

715.02 APPLICABILITY.

No medical marijuana entity shall operate in the City of Pataskala unless the medical marijuana cultivator or processor possesses a valid local operating license pursuant to this chapter and a valid state certificate of operation from the Ohio Department of Commerce. (Ord. 2017-4291. Passed 7-24-17.)

715.03 LOCAL PROVISIONAL LICENSE REQUIRED.

A medical marijuana entity seeking to obtain a local operating license under this chapter must first apply for a local provisional license. A medical marijuana entity may not receive a certificate of compliance unless, at the time such documents are issued, the entity possesses a valid provisional license. (Ord. 2017-4291. Passed 7-24-17.)

715.04 LOCAL PROVISIONAL LICENSE APPLICATION.

An application for a local provisional license shall be made to the City Administrator or his/her designee and shall include the following:

(a) The legal name of the applicant

(b) The type of business organization of the applicant, such as individual, corporation, partnership, limited liability company, association, cooperative, joint venture, or any other business organization.

- (c) Confirmation that the applicant is registered with the Ohio Secretary of State as the type of business submitted pursuant to this rule, a certificate of good standing issued by the Ohio Secretary of State, and a copy of the applicable business documents governing the operations and administration of the business.
- (d) The mailing address, email address, and phone number of the applicant, if the applicant is an individual, or the name, mailing address, email address, and phone number of a designated representative of the applicant, if the applicant is not an
- If the applicant is currently, was previously, or has applied to be licensed or (e) authorized in another state or jurisdiction to cultivate or process medical marijuana in any form, the following shall be required:

(1) A copy of each such licensing and/or authorizing document verifying licensure in that state or jurisdiction.

(2) A statement granting permission to contact the regulatory agency that granted the license, accompanied by the contact information, to confirm the information contained in the application.

(3) If the applicant was ever warned, fined, denied, suspended, revoked or otherwise sanctioned, a copy of documentation so indicating, or a written statement that the applicant was so licensed and was never warned, fined, denied, suspended, revoked or otherwise sanctioned. This includes notification of any pending proceedings regarding warnings, fines, denials, suspensions, revocations, or other sanctions.

(f) With respect to any person presently or previously associated with the applicant, any instance in which such person managed or served on the board of a business and was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding in connection with such management or service, as well as information regarding the association between such person and the applicant.

The proposed physical address of the applicant's medical marijuana entity and (g) confirmation that the property is properly zoned for such use.

(h) A location area map of the area surrounding the proposed medical marijuana entity that establishes that the parcel on which the proposed facility will be located is at least 1,000 feet from the boundaries of a parcel having located upon it a prohibited facility as defined by Section 715.01.

(i) A disaster plan, in addition to any state requirements, that will be implemented in

case of fire, flood, tornado, or other disaster to include the following:

- The methods and procedures to be followed by owners and operators of the (1)medical marijuana entity and by local emergency responders in the case of a disaster.
- (2) The designation of a medical marijuana entity coordinator for the facility and identification of the heads of the emergency response organizations.
- (3) An identification of procedures for reliable, effective, and timely notification and communication among emergency responders in the event of a disaster.

(4) The development of methods and schedules for exercising the plan.

(5) Other information determined to be necessary by the City Administrator or his/her designee.

- (j) A security plan to be reviewed and approved by the Pataskala Police Department.
- (k) Any additional information determined to be necessary by the City Administrator or his/her designee.
- (l) A non-refundable application fee of \$1,500. (Ord. 2017-4291. Passed 7-24-17.)

715.05 LOCAL PROVISIONAL LICENSE APPROVAL.

An application for a local provisional license shall be granted on approval of City Council by resolution only after meeting all requirements of Sections 715.02 thru 715.04, except as otherwise provided in this Chapter. Within one (1) year of receiving a local provisional license, a medical marijuana entity may apply for a local operating license. If a medical marijuana entity possessing a local provisional license has not applied for a local operating license within one (1) year, the local provisional license will expire and a medical marijuana entity seeking a local operating license will first need to submit a new application for a local provisional license. (Ord. 2017-4291. Passed 7-24-17.)

715.06 LOCAL OPERATING LICENSE REQUIRED.

No medical marijuana entity may operate within the City of Pataskala without a valid local operating license. (Ord. 2017-4291. Passed 7-24-17.)

715.07 LOCAL OPERATING LICENSE APPLICATION.

An application for a local operating license shall be made to the City Administrator or his/her designee and shall include the following:

- (a) A copy of the provisional license application by the medical marijuana entity to the Ohio Department of Commerce under Chapter 3796 of the Ohio Revised Code
- (b) A copy of the provisional license granted by the Ohio Department of Commerce under Chapter 3796 of the Ohio Revised Code to the medical marijuana entity at the address at which the facility is to be located.
- (c) Confirmation that the medical marijuana entity is conforming to all requirements under this Chapter, Chapter 3796 of the Ohio Revised Code, and Chapter 3796 of the Ohio Administrative Code.
- (d) Confirmation that the Pataskala Police Department has inspected the facility and approved security arrangements.
- (e) Any additional information determined to be necessary by the City Administrator or his/her designee.
- (f) A non-refundable application fee of \$5,000.
- (g) A copy of the approved State of Ohio certificate of operation/license. (Ord. 2017-4291. Passed 7-24-17.)

715.08 LOCAL OPERATING LICENSE APPROVAL.

An application for a local operating license shall be granted on the approval of City Council by resolution, only after meeting all requirements of Sections 715.06 and 715.07 except as otherwise provided in this Chapter. Every local operating license issued by City Council shall expire one (1) year after the date it was approved. (Ord. 2017-4291. Passed 7-24-17.)

715.09 LOCAL OPERATING LICENSE RENEWAL.

An application to renew a local operating license for a medical marijuana entity shall be submitted to the City Administrator or his/her designee at least 90 days prior to the expiration date of the local operating license. The renewal application shall include the following:

- (a) Confirmation that the medical marijuana entity is conforming to all requirements under this Chapter, Chapter 3796 of the Ohio Revised Code, and Chapter 3796 of the Ohio Administrative Code.
- (b) A copy of a valid certificate of operation issued by the Ohio Department of Commerce to the medical marijuana entity for the same address.
- (c) Any additional information determined to be necessary by the City Administrator or t his/her designee.
- (d) A non-refundable renewal fee of \$5,000.
- (e) A copy of the approved State of Ohio certificate of operation/ license. (Ord. 2017-4291. Passed 7-24-17.)

715.10 LOCAL OPERATING LICENSE RENEWAL APPROVAL.

An application for a renewal of a local operating license shall be granted on the approval of City Council at their discretion by resolution, except as otherwise provided in this Chapter. (Ord. 2017-4291. Passed 7-24-17.)

715.11 VALIDITY OF LOCAL PROVISIONAL AND LOCAL OPERATING LICENSES.

Both local provisional licenses and local operating licenses are valid only as to the particular medical marijuana entity listed in the initial provisional license application. If the ownership of a medical marijuana entity changes, requiring a transfer of ownership application to the State of Ohio pursuant to Chapter 3976:2-1-08 of the Ohio Administrative Code, the medical marijuana entity shall notify the City Administrator or his/her designee. If the State of Ohio determines that the proposed ownership changes complies with Chapter 3796:2-1-08, the ownership change shall be permitted by the City of Pataskala under the existing local provisional license or local operating license. If the State of Ohio determines that a new state license application is required under Chapter 3976:2-1-08(B)(1)(d) of the Ohio Administrative Code, then the ownership change shall not be permitted by the City of Pataskala without a new provisional license and a new local operating license. (Ord. 2017-4291. Passed 7-24-17.)

715.12 MEDICAL MARIJUANA ENTITY CONSENT.

As part of the submission of an application that results in the issuance of a local provisional license or a local operating license, a medical marijuana entity irrevocably consents to the following:

- (a) Any inspection by the City of Pataskala or the Pataskala police Department that is deemed necessary to ensure compliance to the medical marijuana entity with this Chapter, Chapter 3796 of the Ohio Revised Code, and Chapter 3796 of the Ohio Administrative Code. An inspection may be conducted with or without notice. During an inspection, a representative of the City of Pataskala or the Pataskala Police Department may:
 - (1) Review and make copies of all records maintained in accordance with rules 3796:2-2-08, 3796:3-2-08, 3796:6-3-18, and 3796:4-2-09 of the Ohio Administrative Code.
 - (2) Enter any area in the facility.
 - (3) Inspect facility vehicles.

- (4) Review the policies and procedures of the medical marijuana entity, including methods of operating.
- (5) Survey the premises and any off-site facilities.
- (6) Inspect all equipment, instruments, tools, materials, machinery, or any other resource used to cultivate or process, medical marijuana.
- (7) Request access to locked areas in the facility.
- (8) Question licensed employees at the location.
- (9) Obtain samples for testing of any medical marijuana at the facility, media used to grow medical marijuana, chemicals and ingredients used in the cultivation process, any labels or containers for marijuana, or any raw packaged medical marijuana.

 (Ord. 2017-4291. Passed 7-24-17.)

715.13 NOTIFICATION.

- (a) If a medical marijuana entity is subject to any enforcement action by the State of Ohio under Administrative Code Chapter 3796:5-6-01, the medical marijuana entity must immediately notify the City Administrator or his/her designee and provide any relevant information or documentation requested by the City Administrator or their designee.
- (b) If a medical marijuana entity or an employee thereof has a reasonable belief that an actual loss, theft, or diversion of medical marijuana or currency over \$100 has occurred, the medical marijuana entity must immediately notify the Pataskala Police Department, and such notification shall be provided no later than 24 hours after the discovery of the loss, theft, or diversion.
- (c) If any information related to a medical marijuana entity's local provisional license or local operating license changes, the medical marijuana entity must immediately notify the City Administrator or his/her designee.

 (Ord. 2017-4291. Passed 7-24-17.)

715.14 VIOLATION.

If, at any time, the City of Pataskala becomes aware that a medical marijuana entity possessing a local provisional license or a local operating license has engaged in, is engaged in, or is about to engage in any act or practice declared to be prohibited by this Chapter, Chapter 3796 of the Ohio Revised Code, Chapter 3796 of the Ohio Administrative Code, or any other local, state law, rule or regulation, City Council may do any of the following:

- (a) Refer such violations to the Ohio Department of Commerce
- (b) Issue a warning to the medical marijuana entity, which may include possible corrective action.
- (c) Suspend the license and require any violations to be resolved and corrective actions taken as conditions to the reinstatement of the suspended license.
- (d) Revoke the license. (Ord. 2017-4291. Passed 7-24-17.)

715.15 NOTICE OF VIOLATION.

(a) A warning, suspension, or revocation issued by City Council under this Chapter shall be served upon the medical marijuana entity at the address for which a local provisional license and local operating license was granted by: personal service; by certified and then regular mail, if necessary; or by posting in a conspicuous location.

(b) Notice by certified mail shall be effective on upon acceptance. In the event that notice by certified mail is returned unclaimed or refused, mailing of the notice by regular mail shall be deemed effective upon mailing. Notice by personal service or by posting shall be deemed effective at the time of personal service or posting, respectively. (Ord. 2017-4291. Passed 7-24-17.)

715.16 SUSPENSION OF LICENSES.

- (a) Suspension of licenses shall be accomplished only through the procedures outlined in this Section. Suspension shall be accomplished after a public hearing is held thereon by City Council, which hearing shall be held within 30 days after notice is given to the licensee of such hearing, by certified mail and then regular mail, if necessary. The licensee shall have the right to appear at such hearing, to be represented by counsel, and to have the right to examine and cross examine witnesses. Council may suspend a local license for reasons including, but not limited to, loss or expiration of a state certificate of operation/license, ongoing public nuisance issues, events that may harm the safety and health of the public, and illegal activities.
- (b) Suspension may take place without a prior hearing if City Council finds clear and convincing evidence that the continued distribution of medical marijuana presents a danger of immediate and serious harm to others. Notice of the suspension shall be made as provided in this Chapter and a hearing on the merits of the suspensions shall take place within five (5) days of the suspension.
- (c) The suspension will remain in effect, unless lifted by City Council, pending the results of the hearing. If City Council does not issue an order within 90 days after the hearing, the suspension shall be lifted on the 91st day following the hearing.
- (d) As a condition of the reinstatement of a suspended license, City Council may require any violations to be resolved and reasonable corrective actions to be taken. (Ord. 2017-4291. Passed 7-24-17.)

715.17 REVOCATION OF LICENSES.

- (a) Revocation of licenses shall be accomplished only through the procedures outlined in this section. Revocation shall be accomplished only after a public hearing is held thereon by City Council, which hearing shall be held within 30 days after notice is given to the licensee of such hearing, by certified mail and then regular mail, if necessary. The licensee shall have the right to appear at such hearing, to be represented by counsel, and to have the right to examine and cross examine witnesses. Council may revoke a local license for reasons including, but not limited to, loss or expiration of a state certificate of operation/license, ongoing public nuisance issues, events that may harm the safety and health of the public, and illegal activities.
- (b) If a medical marijuana entity's local provisional license or local operating license is revoked, the medical marijuana entity will coordinate with the City Administrator or their designee and the Ohio Department of Commerce in the closing of the facility as provided for in the Ohio Administrative Code. (Ord. 2017-4291. Passed 7-24-17.)

715.18 CEASING OF OPERATIONS.

A medical marijuana entity must immediately cease operations upon suspension, revocation, or expiration of a local operating license. (Ord. 2017-4291. Passed 7-24-17.)

715.19 RIGHT TO APPEAL.

In the event of a decision or ruling adverse to a licensee or license applicant regarding a denial, revocation, or suspension of a license, the licensee or license applicant shall have the right to appeal such decision and ruling to a court of competent jurisdiction, under authority of and pursuant to the provisions of Chapter 2506 of the Ohio Revised Code. (Ord. 2017-4291. Passed 7-24-17.)

715.20 LIMITATION OF MEDICAL MARIJUANA ENTITIES.

- (a) For a period of 36 months following the effective date of this Chapter, City Council shall limit the number of medical marijuana entities to no more than:
 - (1) Two (2) Level One medical marijuana cultivators
 - (2) Two (2) Level Two medical marijuana cultivators
 - (3) Two (2) Level One medical marijuana processors
 - (4) Two (2) Level Two medical marijuana processors
- (b) After the 36 month period following the effective date of this Chapter has elapsed, City Council shall limit the number of medical marijuana entities to no more than:
 - (1) Five (5) Level One medical marijuana cultivators
 - (2) Five (5) Level Two medical marijuana cultivators
 - (3) Five (5) Level One medical marijuana processors
 - (4) Five (5) Level Two medical marijuana processors (Ord. 2017-4291. Passed 7-24-17.)

715.21 PENALTY.

Whoever violations any provision of this Chapter shall be guilty of a misdemeanor of the first degree. (Ord. 2017-4291. Passed 7-24-17.)

CHAPTER 717 Garage Sales

717.01 Definitions.
717.02 Prohibitions.
717.03 Regulation of sales and advertisements.

717.05 Contents of application for

permit.

717.99 **Penalty.**

717.04 Fee for permit.

CROSS REFERENCES Theft by deception - see GEN. OFF. 545.05

717.01 DEFINITIONS.

(a) "Garage sale" includes "garage sale", "lawn sale", "porch sale", "attic sale", "rummage sale" and "flea market" conducted by any person, firm or corporation from any lot or land, or by whatever other name the same may be called, and for the sale of tangible personal property, except:

(1) Auction sales conducted by a licensed auctioneer.

Sales by established retail establishments holding a vendors license, issued by the Ohio Department of Taxation, where the place of business is permanent or is intended to be permanent.

(3) Any sale conducted by a non profit corporation or organization as defined

by Section 501 of the Internal Revenue Code.

- (4) Any private sale, where the public is not invited, where goods are offered for sale by private showing only by means of a newspaper advertisement commonly called a "want ad".
- (b) "Calendar year" means the period of time between January 1 and December 31 of each year.
- (c) "Permit premises" means the house address of the residence or other premises for which the license is issued. (Ord. 77-807. Passed 2-7-77.)

717.02 PROHIBITIONS.

No person, firm or corporation shall conduct a garage sale without having first made an application to the Director of Finance and having paid the required fee therefor at least twenty-four hours prior to the commencement of the sale. (Ord. 77-807. Passed 2-7-77.)

717.03 REGULATION OF SALES AND ADVERTISEMENTS.

- (a) No person shall receive, or make application for any permit premises, of more than two permits, issued in accord with Section 717.02 in any one calendar year.
- (b) No garage sale as defined herein shall continue for more than three consecutive days or more than 72 consecutive hours.
 - (c) All advertising signs shall be limited as follows:

(1) One sign within the permit premises.

Two signs erected other than on the permit premises, none of which shall be erected more than twelve hours prior to the commencement of the sale; and all signs to be removed within twelve hours after the closing of the sale.

(Ord. 77-807. Passed 2-7-77.)

717.04 FEE FOR PERMIT.

The fee for the permit shall be five dollars (\$5.00) and shall be paid to the Director of Finance at the time the application is filed in the Director's office. (Ord. 77-807. Passed 2-7-77.)

717.05 CONTENTS OF APPLICATION FOR PERMIT.

All applications shall be on forms furnished by the Finance Director and shall contain the following information.

(a) The name of the applicant.

(b) The address of the premises for which a license is sought; and

(c) The time of the proposed sale, including the time of commencement and the time of closing.

(Ord. 77-807. Passed 2-7-77.)

717.99 PENALTY.

Any person violating any provision of this chapter shall be guilty of a minor misdemeanor. (Ord. 77-807. Passed 2-7-77.)

CHAPTER 719 Mobile Food Vendors

719.01	Definitions.	719.09	Transfer of permit prohibited.
719.02	Purpose.	719.10	Outdoor public entertainment
719.03	Permitted.		activity, licensed mobile food
719.04	Permit required.		vendors.
	Insurance required for operation.	719.11	Appeals.
719.06	Permit contents.		Severability.
719.07	General requirements.	719.13	Enforcement and penalty.
719.08	Revocation of permit.		

719.01 DEFINITIONS.

- (a) <u>Department of Health:</u> Shall have the same meaning as "licensor" for a mobile vending health license in Ohio Revised Code 3717.01(O).
- (b) <u>Food</u>: A raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.
- (c) <u>Food Delivery Operation:</u> A food service operation from which food is ordered off-site by a customer, prepared, and delivered to the customer. "Food delivery operation" includes, by way of example and not by way of limitation, pizza delivery, sandwich delivery, restaurant delivery services, or "food delivery sales operations" as defined in Ohio Revised Code 3717.01(H).
- (d) <u>Food Service Operation</u>: For the purposes of a mobile food vending license, a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation. As used in this subsection, "served" means a response made to an order for one or more individual portions of food in a form that is edible without washing, cooking, or additional preparation and "prepared" means any action that affects a food other than receiving or maintaining it at the temperature at which it was received.
- (e) <u>Food Trailer</u>: Any vehicle without motive power that is designed to be drawn by a motor vehicle and is specifically designed for food vending operations.

- (f) <u>Food Truck</u>: A vehicle propelled by an engine which has been specifically designed or used for mobile food vending.
- (g) <u>Food Vending Operation:</u> A place location, site or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation. As used in this subsection "served" means a response made to order for one or more individual portions of food in a form that is edible without washing, cooking, or additional preparation and "prepared" means any action that affects a food other than receiving or maintaining it at temperature at which it was received.
- (h) <u>Health License:</u> An official document issued by a department of health pursuant to Section 3701 of the Ohio Revised Code. Such document may be either an annual health license or a temporary health license.
- (i) <u>Mobile Food Vending Unit:</u> A food service operation or retail food establishment that is operated from a food truck, food trailer, pedi-food cart, or pushcart, and that can or does routinely change location. For the purposes of a Mobile Food Vendor Permit, "mobile food vending unit" excludes food delivery operation and vending machines, as defined in Ohio Revised Code 3717.01(L).
- (j) <u>Mobile Food Vendor</u>: Every corporation, association, joint stock association, person, firm or partnership, their lessees, directors, receivers, trustees, appointees by any court whatsoever, or the heirs, executors, administrators, or personal representatives or assignees of any deceased owner, owning, controlling, operating or managing any mobile food vending unit, food trailer or food truck.
- (k) Operator: The individual or entity who manages one (1) or more mobile food vending units whether as the owner, an employee of the owner or as an independent contractor.
- (l) <u>Permanently Revoke</u>: For the purposes of a mobile food vending license, shall mean to terminate all rights and privileges under a license for a period of ninety (90) days or greater and to render the holder of a license ineligible to reapply for said license.
- (m) <u>Public Right of Way</u>: Any property owned by the City of Pataskala, including, but not limited to, any street, road, alley, or sidewalk.
- (n) Revoke: shall, for the purposes of a mobile food vending license, shall mean to terminate all rights or privileges under a license for a period not to exceed ninety (90) days after which the individual must reapply for a license. (Ord. 2017-4297. Passed 11-11-17.)

719.02 PURPOSE.

The purpose of this chapter is to permit Mobile Food Vendors, on a temporary basis, while protecting the health, safety and general welfare of the community. (Ord. 2017-4297. Passed 11-11-17.)

719.03 PERMITTED.

Mobile Food Vendors shall be permitted in the following zoning districts:

Mobile Food Vendors

(a) Professional Research Office District (PRO)

(b) Downtown Business District (DB)

(c) Local Business District (LB)

(d) General Business District (GB)

(e) Light Manufacturing District (M-1)

(f) Planned Manufacturing District (PM)

Mobile Food Vendors may be permitted in other zoning districts at the discretion of the City Administrator or their designee. (Ord. 2017-4297. Passed 11-11-17.)

719.04 PERMIT REQUIRED.

- (a) Unless otherwise stated in this chapter, no Mobile Food Vendor shall operate, or cause to be operated, any mobile food vending unit within the limits of the City of Pataskala without first obtaining a Mobile Food Vendor permit issued by the City Administrator or their designee. The mobile food vendor permit shall be valid for a period of 60 days from the date of issuance. A maximum of three (3) Mobile Food Vendor permits shall be issued per Mobile Food Vendor per calendar year.
- (b) Unless otherwise stated in this chapter, no Mobile Food Vendor shall operate, or cause to be operated, any mobile food vending unit within the City of Pataskala without a current and valid health license issued in accordance with laws, rules and regulations established in the Ohio Revised Code, and the Ohio Administrative Code.
- (c) Nothing in the chapter shall be construed as superseding, supplanting, or otherwise replacing any duty imposed by the Ohio Revised Code Chapter 3701 or 3717, or rules or regulations promulgated thereunder, upon an applicant for a health license, or upon department of health in its responsibilities relative to Mobile Food Vendors. (Ord. 2017-4297. Passed 11-11-17.)

719.05 INSURANCE REQUIRED FOR OPERATION.

No Mobile Food Vendor shall operate, or cause to be operated, any mobile food vending unit within the City of Pataskala without doing both of the following:

(a) Provide to the City Administrator or their designee a certificate of general liability insurance from an insurance company duly licensed to transact such business in the State or of an insurance company not authorized to transact business in this state, provided such insurance is written through a citizen of this state licensed as provided by Ohio Revised Code Sections 5905.03, et seq., in the amount of no less than the state minimum liability insurance as same is defined by the Ohio Department of Insurance.

(b) Affirm, in writing, that the Mobile Food Vendor will forever indemnify and hold harmless the City of Pataskala and all of its agents, employees, officials (elected and appointed), representatives, and insurance providers from and against all claims, damages, losses, suits and actions, including attorney's fees, arising or resulting from operation of a mobile food vending unit in the City of Pataskala.

(Ord. 2017-4297. Passed 11-11-17.)

719.06 PERMIT CONTENTS.

The following items shall be submitted as part of an application for a mobile food vendor permit:

- (a) The mobile food vendor application form provided by the City Administrator or their designee and the proper filing fee.
- (b) A site plan to include the following;
 - (1) A diagram indicating where the mobile food vending unit will park.
 - (2) Dimensions of the mobile food service unit including awnings, canopies and signage.
 - (3) All proposed signage and advertising.
 - (4) The location of parking for patrons.
 - (5) The location of the queue for patrons to line up.
 - (6) The location of all receptacles for trash and recycling.
 - (7) The location of all seating, tables, planters and other accessory items.
- (c) Photographs of the mobile food vendor unit to include details of all signage and menus.
- (d) A copy of the health license pursuant to Section 715.04.
- (e) A copy of the liability insurance for the mobile food service unit pursuant to section 715.05.
- (f) A map indicating the proposed location of where the mobile food service unit will conduct business and, where applicable, written permission from the property owner.
- (g) Other information determined to be necessary by the City Administrator or their designee. (Ord. 2017-4297. Passed 11-11-17.)

719.07 GENERAL REQUIREMENTS.

A Mobile Food Vendor shall abide by all of the following requirements:

- (a) A mobile food vending unit shall not be located in the public right-of-way unless permitted by the City Administrator or their designee.
- (b) A mobile food vending unit shall not cause or allow to be placed or encroach in the public right-of-way any seating, signage, planters, or other temporary structures unless permitted by the City Administrator or their designee.
- (c) All signs and graphics shall be attached to the mobile food vending unit. Free standing or off-premise advertising shall be prohibited.
- (d) A mobile food vendor shall not cause or allow the illegal disposal or release of oils or greases.
- (e) All required City, County and/or State permits shall be clearly displayed on the mobile food vending unit.
- (f) A mobile food vending unit shall be located so that patrons shall be protected by placing the queue in a safe location that does not impede vehicular, bicycle, or pedestrian traffic.
- (g) All cooking and preparation of food shall be conducted within the mobile food vending unit.
- (h) The location of a mobile food vending unit shall have adequate parking so that its operation does not impede vehicular, bicycle or pedestrian traffic or create a safety hazard.
- (i) Alcohol or tobacco shall not be served from a mobile food vending unit.

- (j) The location of a mobile food vending unit shall be kept in a clean and sanitary condition at all times. The mobile food vendor shall have a minimum of one (1) trash receptacle and shall be responsible for the proper disposal of waste and trash associated with the mobile food vending unit. The mobile food vendor shall remove all waste and trash from their location at the end of each day and as needed to maintain cleanliness.
- (k) A mobile food vendor shall not operate between the hours of 11:00pm and 7:00am, unless otherwise permitted by the City Administrator or their designee.
- (l) Any connections for gas, electric and water shall not create a safety hazard nor shall they create a public nuisance.
- (m) All mobile food vending units shall have a minimum of one (1) operable and current fire extinguisher mounted in the cooking area.
- (n) Temporary restroom facilities shall not be permitted as part of the mobile food vendor operation unless permitted by the City Administrator or their designee.
- (o) If at any time the Licking County Health Department revokes, suspends, or provides a notice of deficiency of the Food Service Operation License or Retail Food Establishment license, the mobile food vendor shall cease operation in the City of Pataskala.
- (p) A mobile food vendor shall timely remit all applicable income taxes, income tax returns, and other taxes associated with the operation of a business in the City of Pataskala.
- (q) Refrain from otherwise causing or allowing the operation of a mobile food vending unit in a manner that violates this chapter or other applicable section of the City of Pataskala Code.
- (r) Permanent changes to the site wherein the mobile food vendor is operating shall be prohibited.
- (s) Mobile Food Vendors shall have no inherent rights within the zone in which they locate. (Ord. 2017-4297. Passed 11-11-17.)

719.08 REVOCATION OF PERMIT.

The City Administrator or their designee may revoke, or permanently revoke the permit of any Mobile Food Vendor who engages in any of the following conduct:

- (a) Obtains a license by a false statement in their application.
- (b) Fails to comply with the requirements for Mobile Food Vendors established in this chapter.
- (c) Receives a citation for impeding the flow or operation of pedestrian and vehicle traffic, creating unsanitary conditions, becoming an attractive nuisance for children or any other violation of the City of Pataskala Code.
- (d) Fails to maintain general liability insurance for each mobile food vending unit.
- (e) Is convicted or pleads guilty for any crime committed in or from the mobile food vending unit.
- (f) Any other form of misconduct, which shall mean conduct apart from the generally accepted practices of mobile food vending unit owners and employees, which demonstrates personal, corporate, managerial, ethical or professional characteristics or disposition rendering a person unsuitable to own or work in a mobile food vending unit. (Ord. 2017-4297. Passed 11-11-17.)

719.09 TRANSFER OF PERMIT PROHIBITED.

No permit issued under this chapter shall be transferred or assigned by the named Mobile Food Vendor to any other individual or organization. (Ord. 2017-4297. Passed 11-11-17.)

719.10 OUTDOOR PUBLIC ENTERTAINMENT ACTIVITY, LICENSED MOBILE FOOD VENDORS.

- No Mobile Food Vendor permit shall be required for any Mobile Food Vending Unit that operates exclusively within an Outdoor Public Entertainment Activity permit.
- Nothing in this section shall limit periodic inspections by the City of Pataskala or the Licking County Health Department. (Ord. 2017-4297. Passed 11-11-17.)

719.11 APPEALS.

Any Mobile Food Vendor who has been refused a permit under this chapter or has had a permit issued under this chapter suspended or revoked, may appeal such decision to Council for the City of Pataskala within 30 days of the refusal, suspension or revocation. (Ord. 2017-4297. Passed 11-11-17.)

719.12 SEVERABILITY.

If any particular portion of this chapter is declared to be invalid by a court of competent jurisdiction, such declaration of invalidity shall be limited to the particular portion declared invalid. This declaration of invalidity shall not affect or impair the remainder of this chapter, and to this end, the provisions are severable.

(Ord. 2017-4297. Passed 11-11-17.)

719.13 ENFORCEMENT AND PENALTY.

- The City Administrator or their designee shall determine compliance with the provisions of this chapter.
- Whoever violates any section of this chapter shall be guilty of a minor (b) misdemeanor. Any such violation shall constitute a separate offence on each successive day continued. Strict liability is intended to be imposed for a violation of this chapter. (Ord. 2017-4297. Passed 11-11-17.)

CHAPTER 723 Junk Yards

723.01 Definitions.
723.02 Prohibitions.
723.03 License requirements.
723.04 Scrap yard fences.
723.05 Inspections.
723.99 Penalty.

CROSS REFERENCES

State licensing and required fencing - see Ohio R.C. 4737.05 et seq. Junk vehicles - see TRAF. 303.09, 303.10

723.01 DEFINITIONS.

As used in this chapter, the following words have the meanings set forth herein for the purpose of definition.

- (a) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, rubber, tires. junked, dismantled or wrecked automobiles or parts thereof, iron, steel and other old or scrap ferrous or nonferrous materials which are not held for sale for remelting purposes, and establishment having facilities for processing such materials.
- (b) "Junkyard" or "Scrap Yard" means an establishment or place of business, (not including an establishment having facilities for processing and recycling of iron, steel, nonferrous scraps and whose principal product is scrap iron and steel or nonferrous scrap for sale for remelting purposes), which is maintained or operated for the purpose of storing, keeping, buying, or selling junk, and of the maintenance or operation of any automobile graveyard including where more than two (2) junk or nuisance motor vehicles, or parts thereof, per Section 303.10 are stored even when concealed by fence or opaque hedges.
- (c) "Fence" means an enclosure at least six feet in height, constructed of nontransparent material, and maintained so as to secure the junk in the enclosure from ordinary view of persons passing upon the streets or from a neighboring property from a vantage point.

 (Ord. 2011-4032. Passed 9-6-11.)

723.02 PROHIBITIONS.

No person shall operate or maintain a junk yard within the Municipality unless the person has obtained a license issued under Section 723.03.

No licensee shall maintain or operate a junk yard in violation of the provisions of Section 723.03. (Ord. 2011-4032. Passed 9-6-11.)

723.03 LICENSE REQUIREMENTS.

- (a) No person shall operate or maintain a junk or scrap yard without having first obtained a license to do so from the City Administrator.
- (b) The fee for license under this section is one hundred dollars (\$100.00). All licenses issued under this section shall expire on the 1st day of January following the date of issue. Licenses shall be renewed from year to year upon the payment of one hundred dollars (\$100.00).
- (c) Any license or renewal thereof issued under this section may be revoked by the City Administrator after giving ten day's notice and an opportunity to be heard to show cause why the license should be revoked due to a violation by the licensee or any of his officers, agents or employees.
- (d) In the event that the person who seeks a license has been previously refused a license by the county auditor of any county in the State acting under the provisions of Ohio R.C. Chapter 4737, the person shall not be entitled to receive a license within this City.
- (e) An application for a license to operate and maintain a junk r scrap yard or for the renewal thereof shall be made in writing, accompanied by the proper fee payable to the City setting forth the name and address of the applicant, the location of the junk or rap yard, if the applicant is a firm, partnership or association, the names and addresses of each member, if the applicant is a corporation the date and place of incorporation, the names and the addresses of the officers and directors, and such other reasonable information as may be required. The application shall be signed and sworn to by the applicant. (Ord. 2011-4032. Passed 9-6-11.)

723.04 SCRAP YARD FENCES.

- (a) Any fence required to be constructed under the provisions of this chapter shall be neatly constructed, shall be of uniform nontransparent materials throughout and shall be kept in good order and repair and no advertisement shall be permitted thereon other than the name of the person under whose license has been issued and the nature of the business conducted therein. Fencing material that are of compoition or condition requiring paint shall maintain such paint in good condition. The paint colors shall blend into the environs of the street right of way.
 - (b) Piling of materials above the planned height of fencing is prohibited.
- (c) Additional plant materials around the fence shall be given proper maintenance to remain in good condition. Dead plant material shall be removed immediately and shall be replaced if it was condition of approval of the facility.
- (d) The right to maintain a nonconforming junkyard or scrapyard shall be terminated if for a period of three (3) months the property is void of junk, or if, for a period of six (6) months, there is no additional junk is placed on the site. (Ord. 2011-0432. Passed 9-6-11.)

723.05 INSPECTIONS.

(a) The Zoning Inspector shall inspect each junk or scrap yard located within this City and for which a license has been issued to obtain information as to whether the licensee's business has been and is being conducted in accordance with the provisions of this chapter. The Zoning Inspector shall submit a written report of such examination to the City Administrator.

(b) The Zoning Inspector shall for the purpose of this examination have access to the grounds and the buildings used in the conduct of the business by the licensee during the regular hours of the licensee. (Ord. 2011-0432. Passed 9-6-11.)

723.99 PENALTY.

- (a) Whenever the City Administrator or Law Director is of the opinion that the junk yard is being operated or maintained in violation of any provisions of this chapter, and that corrective action has not been completed within 30 days of notification, they may apply, in the name of the City, to a court of competent jurisdiction alleging violation thereof and praying for an injunction to abate the nuisance, or other proper relief.
- (b) Court costs and the costs of abatement and costs to the City for investigation and follow up on the complaint, shall be delivered to the Clerk of Council to make a return to the County Auditor for assessment on the property tax of the parcel or parcels.
- (c) Whoever violates any provision of this chapter is guilty of a misdemeanor of the fourth degree for each violation, and each day in which the violation continues shall be deemed to be a separate offense.

 (Ord. 2011-0432. Passed 9-6-11.)

CHAPTER 729 Outdoor Public Entertainment Activity

729.01 Definitions.
729.02 Permit required for outdoor public entertainment.
729.03 Application for permit.
729.04 Conditions of permit.
729.05 Decision by Administrator and review of decision.
729.99 Penalty.
729.05 Decision by Administrator and review of decision.
729.99 Penalty.

729.04 Conditions of permit, performance bond and waiver of bond requirement.

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.48, 715.63, 3765.02 State licensing of portable amusement devices - see Ohio R.C. 1711.11(H) County license for public shows - see Ohio R.C. Ch. 3765

729.01 DEFINITIONS.

Unless otherwise expressly stated in this chapter, the following terms shall have the meanings provided in this section.

(a) "Operator" means the person, firm, partnership, corporation, club, society, or other legal entity that operates or supervises any outdoor public entertainment activity or constructs structures incident to outdoor public entertainment.

(b) "Outdoor public entertainment" means any carnival, fair, festival or similar enterprise which offers to the public, for a fee, any one or combination of: amusement rides; games of chance for which prizes may be awarded; sales of food or beverages; exposition of or offer for sale of goods; entertainment performance or series of performances; or musical concert.

(c) "Sponsoring agency" means the person, firm, partnership, corporation, club, society or other legal entity that organizes, funds, promotes or sponsors any outdoor public entertainment.

(d) "Property owner" means the owner or owners of record of the property or properties upon which the sponsoring agency and/or operator wishes to conduct outdoor public entertainment.

(Ord. 2007-3795. Passed 9-4-07.)

729.02 PERMIT REQUIRED FOR OUTDOOR PUBLIC ENTERTAINMENT.

No sponsoring agency, operator, or property owner shall conduct, operate or allow to be conducted or operated any outdoor public entertainment within the City without a permit issued by the City Administrator pursuant to the guidelines that may be established from time to time by the City Council relative to outdoor public entertainment. Guidelines established shall be made available to any interested individual and/or applicant upon request. (Ord. 2007-3795. Passed 9-4-07.)

729.03 APPLICATION FOR PERMIT.

- (a) <u>Application:</u> The sponsoring agency, operator and property owner shall jointly submit an application for a permit to conduct outdoor public entertainment to the City Administrator upon such form or in such manner as may be established by the City which shall, at a minimum, contain the following:
 - (1) Proposed date(s) and hours of activity.

(2) Nature of activity.

(3) Anticipated level of public attendance if known.

- (4) Name(s) of individual(s) who will be available on the proposed location for the activity during all hours of the activity.
- (5) Extent of law enforcement or other safety force needs anticipated and/or expected along with the name of the contact person at each such office and the details of the arrangements made for such services.
- (6) The date(s) and location(s) of any prior activity conducted, the nature of any complaints received, citations issued and/or actions taken relative to any performance bonds required.
- (7) Name, current address and telephone number of each individual submitting the application on behalf of the Sponsoring agency, operator and property owner.
- (b) <u>Application Deadline:</u> Any application for a permit required by this chapter shall be submitted not later than thirty days prior to the dates proposed for the activity as set forth in subsection (a)(1) hereof.
- (c) <u>Application Fee:</u> Each application shall include a non-refundable administrative processing fee of twenty-five dollars (\$25.00). (Ord. 2009-3911. Passed 6-1-09.)

729.04 CONDITIONS OF PERMIT, PERFORMANCE BOND AND WAIVER OF BOND REQUIREMENT.

- (a) The City Administrator shall review the application for outdoor activity and, after consulting with such other City officials:
 - (1) That the guidelines established by Council would require given the information disclosed by the applicant in Section 729.03(a) hereof, and,
 - Such other additional City officials as the Administrator feels appropriate based upon the nature of the application, approve, approve with additional specific conditions or deny an application for outdoor activity.
- (b) Every permit issued by the City Administrator shall be limited to the conditions set forth in the permit or document of approval including but not limited to the approved hours of operation, special limitations, or additional requirements such as law enforcement presence and/or other safety force utilization.
- (c) Every permit issued, unless a specific waiver has been authorized by the City Administrator as a consequence of the community based nature of the activity, (such as, by way of illustration and not by way of limitation, the annual Community Street Fair, church events, school events and community based not for profit events), shall be conditioned upon the provision by the applicants of a performance bond in the amount of two thousand five hundred dollars (\$2,500) to secure the faithful performance of all of the terms and conditions established relative to the permit.

- (d) The failure to comply with the provisions of this chapter or any of the terms and conditions set forth in the permit shall constitute a violation of the Section 729.99 under this Chapter and shall form the basis for an immediate suspension of the permit by the Chief of Police and/or a revocation of the permit by the City Administrator.
- (e) Any suspension of a permit issued under this chapter shall be accompanied by a prompt review and determination by the City Administrator as to whether the permit should be subject to revocation with subsequent bond forfeiture proceedings, additional conditions or additional performance bond amounts. (Ord. 2009-3911. Passed 6-1-09.)

729.05 DECISION BY ADMINISTRATOR AND REVIEW OF DECISION.

- (a) The approval, approval with conditions or denial of an application by the City Administrator shall be made within ten days of the receipt of a completed application. Any approval that imposes conditions shall be in writing and shall be specific as to the conditions imposed and shall state the reasoning for the imposition of such conditions. Any denial of an application shall be in writing and shall set forth in detail the reason or reasons for the denial. The applicant shall be promptly notified of the determination of the City Administrator on the action taken relative to an application.
- (b) Any applicant aggrieved by the determination of the City Administrator may appeal the Decision of the Administrator to Council who shall consider the appeal at the next following regularly scheduled meeting of Council or at a special meeting called to consider any such matter. (Ord. 2007-3795. Passed 9-4-07.)

729.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the third degree. Each individual violation of a condition as set forth in a permit issued under the authority of this chapter constitutes a separate violation. (Ord. 2007-3795. Passed 9-4-07.)

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CHAPTER 735 Peddlers and Solicitors

735.01 Definitions.

735.99 Penalty.

735.02 License required.

735.03 Regulations.

CROSS REFERENCES

Home solicitation sales - see Ohio R.C. 1345.21 et seq. Charitable solicitations - see Ohio R.C. Ch. 1716
Door to door sales activity of minors restricted - see Ohio R.C. 4109.21
Trespassing - see GEN. OFF. 541.05
Littering - see GEN. OFF. 521.08

735.01 DEFINITIONS.

As used in this chapter:

(a) <u>Person</u>. "Person" includes the singular and the plural and shall include any person,

firm, corporation or organization.

(b) Peddler. "Peddler" includes any person, whether a resident of this Municipality or not, traveling by foot, wagon, automobile, truck, cart or any other type of conveyance, from place to place, or from street to street, or from door to door, carrying, conveying or transporting goods, wares, merchandise, farm products or provisions, offering and exposing the same for sale, or selling from a wagon, automotive vehicle or other vehicle conveyance, but shall not be deemed to include a person engaged in the sale of dairy and bakery products by traveling or regularly established routes. This shall not be deemed to include the youth of this community who on their own initiative engage in free enterprise for themselves. "Peddler" includes "hawker" and "huckster"

"Peddler" includes "hawker" and "huckster".

(c) Mobile Food Service Operation. "Mobile food service operation" includes any operation which is maintained for the purpose of selling or dispensing edible food on the streets of this Municipality from a cart, wagon, or motorized vehicle. No person shall operate, control, maintain or allow to be maintained within this Municipality any mobile food service operation without first obtaining a license from the Licking County Board of Health and produce the license for inspection by

the Chief of Police.

(d) <u>Solicitor or Canvasser.</u> "Solicitor" or "canvasser" includes any person with no fixed place of business in this Municipality dealing primarily with consumers, who takes orders for goods for future delivery or for personal service to be furnished in the future, whether by telephone or by house to house or business to business canvassing.

(e) <u>Itinerant Merchant or Vendor.</u> "Itinerant merchant" or "vendor" includes any person with a fixed place of business within this Municipality, but who on no more than four days in one calendar year offers goods or services for sale at places other than their fixed place of business.

(Ord. 84-979. Passed 2-4-85.)

735.02 LICENSE REQUIRED.

No person shall engage in the business of peddler, solicitor, canvasser, itinerant merchant or mobile food service operation to solicit sales of, sell, offer for sale, barter, or exchange goods, wares, or personal service without applying for a license, paying the required fee and receiving from the Chief of Police a license to conduct business in this Municipality. (Ord. 84-979. Passed 2-4-85.)

735.03 REGULATIONS.

- (a) <u>Exceptions.</u> The requirements of a fee and registering as provided herein shall not apply to:
 - (1) A duly authorized agent soliciting the sale of goods or wares for or on behalf of any recognized educational, civic, religious or charitable organization.
 - (2) Agents or salesmen of wholesale houses or firms selling or offering to sell their wares or merchandise by sample to merchants of this Municipality, nor to farmers selling or offering for sale the products of their own farms.

(b) <u>Cancellation</u>.

- (1) In addition to any right otherwise to revoke an offer or cancel a contract, the buyer or seller in a home solicitation sale may revoke an offer, or promise to purchase, cancel a contract, or rescind a consummated sale and purchase until midnight of the third calendar day after the day on which the buyer signs an agreement.
- (2) Cancellation occurs when the buyer gives written notice of cancellation to the seller at the address stated in the agreement, contract or offer to purchase. Notice of cancellation given by the buyer need not take any particular form and is sufficient if it indicates by any form of written expression the intention of the buyer not to be bound by the home solicitation sale.
- (3) Notification by mail shall be considered given at the time mailed.
- (4) The buyer may not cancel a home solicitation sale if the seller in good faith makes a substantial beginning of performance of service before the buyer gives notice of cancellation.

(c) Application.

- (1) Applicants for a license under this chapter must file with the Chief of Police a sworn application in writing on a form to be furnished by the Finance Director's Office which shall give the following information:
 - A. Name:
 - B. Address (both legal and local);
 - C. Name and address of employer;
 - D. Name and address of supervisor;
 - E. Length of service with employer;

- F. All places of employment and residence during the preceding twelve months;
- G. Description of the nature and character of business, the goods to be sold or the service to be furnished by the applicant;
- H. Valid identification;
- I. Written proof of employment; and
- J. Period of time license is requested.
- (2) The license shall not be issued sooner than five working days after the application is filed. When the Chief of Police shall determine that the applicant is of good moral character and proposes to engage in a lawful commercial or professional enterprise, a license will be issued.
- (d) Appeals. Any applicant whom the Chief of Police has denied a license shall be entitled to appeal to Council.
- (e) <u>Registration, Transfer and Use.</u> Any peddler, solicitor, agent, canvasser, itinerant merchant or mobile food service operation may engage in the business after application to the Chief of Police, registering, paying the fee and receiving a license from the Chief of Police.
 - (f) <u>Fees.</u>
 - (1) Twenty-five dollars (\$25.00) for thirty days or less.
 - One hundred dollars (\$100.00) for no more than one year. (Ord. 84-979. Passed 2-4-85.)

735.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor for the first offense, and a misdemeanor of the fourth degree for any subsequent offense. Each and every day upon which the violation takes place shall be deemed a separate offense. (Ord. 84-979. Passed 2-4-85.)

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CHAPTER 739 Video Service Providers

739.01 Fees.

739.01 FEES.

- (a) In accordance with the requirements of Ohio R.C. 1332.32, and subject to its taking effect, all video service providers providing video service in the City of Pataskala pursuant to a video service authorization obtained from the Director of the Ohio Department of Commerce shall pay Video Service Provider Fees ("VSP Fees") in the amount of five percent (5%) of gross revenues received from providing video service in the City of Pataskala, which gross revenue base shall include advertising revenues as permitted and defined by Ohio R.C. 1332.32(B)(2)(g). The VSP Fee shall be paid quarterly, not sooner than forty-five (45) days nor later than sixty (60) days after the end of each calendar quarter.
- (b) The City Administrator is hereby authorized and directed, upon receipt of notice from a video service provider that it will being providing service in the City pursuant to a state-issued video service authorization, to provide such video service provider within notice of the VSP Fee as determined by this Council above, which notice may be given by overnight (return receipt), certified mail or other manner of delivery no later than ten (10) days from receipt of the provider's notice. (Ord. 2008-3847. Passed 2-4-08.)

CHAPTER 745 Medical Marijuana Retail Dispensaries

745.01 Prohibitions.

745.01 PROHIBITIONS.

- (a) Medical Marijuana is defined by Ohio R.C. 3796.01 as "marijuana that is cultivated, processed, dispensed, tested, possessed, or used for medical purposes" ("Medical Marijuana").
- (b) Medical Marijuana retail dispensaries, licensed under Ohio law, are hereby prohibited from locating and/or doing business within the City of Pataskala, Ohio.
- (c) The prohibition set forth in subsection (b) hereof does not limit research related to marijuana conducted at a state university, academic medical center, or private research and development organization as part of a research protocol approved by an institutional review board or equivalent entity.
- (d) Once this section takes effect, no provision, definition, regulation or use (permitted or conditional), set forth in the City of Pataskala Zoning Code shall include, or be interpreted to include, Medical Marijuana cultivation, processing, and/or retail dispensing. (Ord. 2017-4285. Passed 6-19-17; Ord. 2017-4291. Passed 7-24-17.)

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CODIFIED ORDINANCES OF PATASKALA PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

TITLE ONE - Street and Sidewalk Areas

Chap. 905. Excavations.

Chap. 909. Trees.

TITLE THREE - Utilities

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

TITLE FIVE - Other Public Services

Chap. 953. Garbage and Refuse Disposal. Chap. 955. Public Parks.

CODIFIED ORDINANCES OF PATASKALA PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

TITLE ONE - Street and Sidewalk Areas

Chap. 905. Excavations. Chap. 909. Trees.

CHAPTER 905 Excavations

905.01	Conditions precedent to	905.04	Restoration of pavement.
	improving streets.	905.05	Barriers around excavations.
905.02	Working in the right of way;	905.99	Penalty.
	permit required.		•
905.03	Application and cash deposit.		

CROSS REFERENCES

Power to establish and care for streets - see Ohio R.C. 715.19, 717.01, 723.01 Openings by the Municipality - see Ohio R.C. 723.02 Surface treatment - see Ohio R.C. 723.23, 723.31 Excavation liability - see Ohio R.C. 723.49 et seq. Compulsory service connections - see Ohio R.C. 729.06, 743.37 Changing established grade - see Ohio R.C. 727.07 Digging, excavating and piling earth on streets - see Ohio R.C. 5589.10 Barricades and warning devices - see GEN. OFF. 521.03

905.01 CONDITIONS PRECEDENT TO IMPROVING STREETS.

No department of the City shall accept, lay out, open, improve, grade, pave, curb or light any street or other way, unless such street or way:

(a) Shall have been accepted or opened or otherwise shall have received the legal status of a public street or way prior to the effective date of these Codified Ordinances; or

(b) Unless such street or way corresponds in location and extent with a street or way shown on a recorded plat which shall have been legally accepted by the City. (1956 Code Sec. 28.2)

905.02 WORKING IN THE RIGHT OF WAY; PERMIT REQUIRED.

It shall be unlawful for any person, other than the Director of Utility Services, Director of Public Services, City Engineer, or the authorized employees or agents of either, to work in the right of way or make any opening in any street, alley, sidewalk, or public right of way of the City unless a permit to make such opening shall have been obtained prior to commencement of the work, as herein provided. (Ord. 98-3213. Passed 4-20-98.)

905.03 APPLICATION AND CASH DEPOSIT.

Each permit for making such opening shall be confined to a single project and shall be issued by the Director of Public Services at a cost of fifteen dollars (\$15.00). Application shall be made on a form prescribed by the Administrator, giving the exact location of the proposed work or opening, the kind of paving, the area and depth to be excavated and such other facts as may be provided for. The Director of Public Services may require a cash deposit, letter of credit, or performance bond, sufficient to cover the cost of restoration. (Ord. 98-3213. Passed 4-20-98.)

905.04 RESTORATION OF PAVEMENT.

The opening and restoration of a pavement or other surface shall be performed under the direction and to the satisfaction of the Director of Public Services, and in accordance with rules, regulations and specifications approved by the Administrator or his designated representative.

Upon failure or refusal of the permittee satisfactorily to fill the excavation, restore the surface and remove all excess materials within the time specified in the permit or where not specified therein, within a reasonable time after commencement of the work, the City may proceed without notice to make such fill and restoration and the deposit referred to in the preceding section shall be deemed forfeited. Thereupon such deposit shall be paid into the Street Repair Fund of the City, except such part demanded and paid to the permittee as the difference between the deposit and the charges of the City for restoration services performed by it. If the amount of such services performed by the City should exceed the amount of such deposit, the Finance Director shall proceed to collect the remainder due from such permittee. (Ord. 98-3213. Passed 4-20-98.)

905.05 BARRIERS AROUND EXCAVATIONS.

Any person engaged in or employing others in excavating, or opening any street, sidewalk, alley or other public way, shall have such excavation or opening fully barricaded at all times to prevent injury to persons or animals. (1956 Code Sec. 28.12)

905.99 PENALTY.

Any person making or causing an opening to be made without having obtained a permit as required under the foregoing sections, is guilty of a misdemeanor of the third degree for each offense, and each opening made in violation of the provisions hereof shall constitute a separate offense.

CHAPTER 909 Trees

909 01	Definitions.	909 07	Interference with the Director
	Public tree care.	707.07	of Public Services.
	Tree topping.	909.08	Abuse of public trees.
	Pruning; corner clearance.		Penalty.
	Dead or diseased tree	2 02 122	
•••	removal on private property.		
909.06	Removal of stumps.		

CROSS REFERENCES

Power to regulate shade trees and shrubbery - see Ohio R.C. 715.20 Assessments for tree planting or maintenance - see Ohio R.C. 727.011 Injury or destruction - see GEN. OFF. 541.06

909.01 DEFINITIONS.

As used in this chapter:

(a) "Street trees" are herein defined as trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the City.

(b) "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

(Ord. 87-1023. Passed 6-15-87.)

909.02 PUBLIC TREE CARE.

- (a) The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
- (b) The Director of Public Services may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest.
- (c) Any new or replacement street trees shall be planted on the property and shall be of a species listed as appropriate for the location in Section 1283.05, Table 1283.05-01 of the Codified Ordinances. Any tree planted in violation of this section may be removed by the City. (Ord. 2009-3933. Passed 9-21-09.)

909.03 TREE TOPPING.

It shall be unlawful as a normal practice for any person, firm or City department to top any street tree, park tree or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other structures where other pruning practices are impractical may be exempted from this section at the determination of the Director of Public Services. (Ord. 87-1023. Passed 6-15-87.)

909.04 PRUNING; CORNER CLEARANCE.

Every owner of any tree overhanging any street or right of way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light or interferes with visibility of any traffic control device or sign. (Ord. 87-1023. Passed 6-15-87.)

909.05 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

The City shall have the right to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life and property, or harbor insects or disease which constitutes a potential threat to other trees within the City. The Director of Public Services will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice. (Ord. 87-1023. Passed 6-15-87.)

909.06 REMOVAL OF STUMPS.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (Ord. 87-1023. Passed 6-15-87.)

909.07 INTERFERENCE WITH THE DIRECTOR OF PUBLIC SERVICES.

It shall be unlawful for any person to prevent, delay or interfere with the Director of Public Services, or any of his agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees, or trees on private grounds, as authorized in this chapter.

(Ord. 87-1023. Passed 6-15-87.)

909.08 ABUSE OF PUBLIC TREES.

Unless specifically authorized by the Director of Public Services, no person shall intentionally damage, cut, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising posters or other contrivance to any tree; allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree. (Ord. 87-1023. Passed 6-15-87.)

909.99 PENALTY.

Any person violating any provision of this chapter shall be fined not to exceed one thousand dollars (\$1,000). (Ord. 87-1023. Passed 6-15-87.)

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TITLE THREE - Utilities

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

CHAPTER 921 Sewer Regulations

921.01	Definitions.	921.06	Tampering prohibited.
921.02	Use of public sewers required.		Powers and authority of
921.03	Private sewage disposal.		inspectors.
921.04	Building sewers and connections.	921.99	Penalty.
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.
- (1) "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 reuse 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.

(1) 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.
 - 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

925.01 Rules and regulations.
925.02 Backflow prevention devices; private water supply; inspections.

925.03 Lawn watering. 925.99 Penalty.

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.)

CHAPTER 929 Rates and Charges

929.01	System capacity charges for	929.05	Prepayment of system
	water and sanitary sewage.		capacity charges.
929.02	Prohibition.	929.06	Disposition of fees.
929.03	Schedule for water and	929.07	Sanitary sewer service rates.
	sanitary sewage capacity	929.08	Water service rates.
	charges.	929.09	General fee schedule.
929.04	Charges and rates outside		
	the City.		

CROSS REFERENCES Sewerage rates - see Ohio R.C. 729.49 Water rates - see Ohio R.C. 743.26 et seq.

929.01 SYSTEM CAPACITY CHARGES FOR WATER AND SANITARY SEWAGE.

A system capacity charge for water and sanitary sewage shall be made for each new service connection to any property which shall be paid at the time of application for and in accordance with the capacity fee schedule in existence at the time that the connection permit is issued for such service. This charge shall be in addition to any other fees or charges made for sewer connections. Each service, water or sanitary sewage, applied for shall be charged at a separate system capacity charge. (Ord. 98-3203. Passed 2-17-98.)

929.02 PROHIBITION.

No person, firm or corporation shall make a service connection or any part thereof to the sanitary sewer system or water system of the City, unless he or they have paid for and been issued a permit therefor by the City. (Ord. 98-3203. Passed 2-17-98.)

929.03 SCHEDULE FOR WATER AND SANITARY SEWAGE CAPACITY CHARGES.

City Administrator is hereby authorized and directed to amend the system capacity charges to be paid whenever an application is made for a connection permit to an existing sanitary sewer or water service to a structure whenever such property is or may be proximate to any sanitary sewer or water service built by or under the supervision and direction of the City. If such proximity is established as a consequence of improvements or extensions to the City system which included property assessments, the Administrator shall include an equivalent assessment as a component of connection in addition to any capacity charges. If assessments are so levied, the parcel owner wishing to connect would pay an assessment based upon the benefit to the parcel, in the same manner and equivalent apportionment as those originally assessed properties paid in addition to any capacity charges. Proximity is established as set forth in Section 921.02(d). (Ord. 2010-3968. Passed 4-5-10.)

The charges to be made shall be determined as follows:

- (a) Sanitary sewage capacity charges and water capacity charges for each single family dwelling for which a permit is granted shall each be as outlined in the following tables.
- (b) Each unit in any two-family or multi-family dwelling unit shall be served with a minimum of a three-fourths inch water service. These units may be served with multiple three-fourths inch water taps or services off one larger water tap. In either case, the rates in subsection (g) hereof will apply separately for sanitary sewage and water service.
- (c) For any structure intended wholly or partially as a commercial structure, for which a sewer permit or water permit is needed, the charge shall be for each unit or part thereof in accordance with subsection (g) hereof.

Dwelling units within commercial structure shall be charged in the same manner as a multi-dwelling unit.

A commercial unit is defined as a building or structure part thereof wherein the principal activity is to provide merchandise or a service to the public. A commercial unit is further defined as consisting of 15,000 square feet of floor area or less. Any commercial building or structure in excess of 15,000 square feet of floor area shall be considered to have multiple commercial units for each 15,000 square feet of floor area or part thereof.

- (d) For any structure intended partially or wholly for industrial use for which sanitary sewer or water service is needed, the charge shall be negotiated directly with the City Administrator for each such industrial unit connection proposed for such structure. Commercial units in an industrial structure will be charged for sanitary sewage and water in accordance with the charge for size of water lines but in no event less than two thousand dollars (\$2,000) per unit.
 - An industrial use is defined as any activity where materials are received, are altered by one or more internal operations and then shipped in the altered form.
 - An industrial unit shall consist of a building or part thereof having 40,000 square feet or less in floor space. Any industrial structure in excess of 40,000 square feet of floor area shall be considered to have multiple industrial units for each 40,000 square feet of floor area or part thereof.
- (e) All buildings and structures of municipal, county and state activities shall be classed as commercial and shall be charged in the same manner as a commercial structure.
- (f) All buildings and structures of churches, schools and other organizations of service to the public shall be classed as commercial unit(s) as previously defined and shall be charged as provided for commercial unit(s). (Ord. 2001-3400. Passed 9-4-01.)

(g) The rates listed in subsections (a) through (d) hereof presuppose the availability of water service to the premises by way of a three-fourths inch water service per defined unit. Where either larger water lines or multiple three-fourths inch water lines are provided, a greater use of the sanitary sewer system can be anticipated. Where more than one three-fourths inch water line serves a unit, multiple fees shall be paid.

Where the size of the water line is greater than three-fourths inch, the following charges shall be levied in addition to the original unit charge separately for sanitary sewer service and water service:

Sanitary Sewer System Capacity Charges:

Tap Size	<u>In-Town</u>	Out-of-Town	Beechwood Trails
3/4"	\$4,500	\$6,143	\$5,324
1"	\$6,955	\$10,433	\$9,042
1-1/2"	\$14,300	\$21,450	\$18,590
2"	\$26,975	\$40,463	\$35,068
3"	\$58,825	\$88,238	\$76,473
4"	\$115,050	N/A	N/A
6"	\$247,000	N/A	N/A

Water System Capacity Charges:

Tap Size	<u>In-Town</u>	Out-of-Town	Beechwood Trails
3/4"	\$5,500	\$7,088	\$6,143
1"	\$8,025	\$12,038	\$10,433
1-1/2"	\$16,500	\$24,750	\$21,450
2"	\$31,125	\$46,688	\$40,463
3"	\$67,875	\$101,813	\$88,238
4"	\$132,750	N/A	N/A
6"	\$285,000	N/A	N/A

(Ord. 2012-4087. Passed 8-6-12; Ord. 2017-4300. Passed 11-20-17.)

(h) Where water services or a determined portion of a water service is installed for fire protection, no normal use of sanitary sewers would be anticipated and, therefore, no sewer capacity fee would be levied on those lines or parts used solely for this purpose.

(i) The preceding rates shall apply except in the situation where a water service connection is made solely for fire protection. Where a water service connection is made solely for fire protection, the water system capacity charge will be fifty percent (50%) of the above rate. (Ord. 98-3203. Passed 2-17-98.)

929.04 CHARGES AND RATES OUTSIDE THE CITY.

Those utility customers of the City who do not reside within the City corporate limits shall be charged a rate equal to one hundred fifty percent (150%) of the rate charged to utility service customers who reside within the City corporate limits unless there exists specific legislation or other contractual commitment that establishes an alternate rate for those customers. (Ord. 2011-4016. Passed 2-22-11.)

929.05 PREPAYMENT OF SYSTEM CAPACITY CHARGES.

The developer, owner or subdivider of any lands in the City or to which a sanitary sewer or water connection will be made may, if he so elects, prepay the connection fees at any time. However, if changes provided for by this chapter have been increased between the time of prepayment and the time the service connection is made, the owner, developer or subdivider shall pay the difference between the rate in effect at the time of connection and the prepaid fees and such additional fee, if any, shall be paid at the time the connection is actually made. (Ord. 98-3203. Passed 2-17-98.)

929.06 DISPOSITION OF FEES.

The fees received by the City from proceeds of system capacity charges provided for herein shall be paid into the Water and Sewer Revenue Fund and shall be encumbered along with any interest earned therefrom for the purposes of expanding the water and sewer system. All expenditures of these funds must be directed by an ordinance of Council for purposes of capital improvement of the water and sewer system. (Ord. 98-3203. Passed 2-17-98.)

929.07 SANITARY SEWER SERVICE RATES.

The monthly rates to be charged per thousand gallons for sanitary sewer service for residential and conunercial customers within the City's Utility Service Area shall be as follows:

	In-Town	Out-Of-Town
<u>Year</u>	<u>Sewer</u>	<u>Sewer</u>
2016	\$7.65	\$11.48
2020	\$8.26	\$12.40
2022	\$8.92	\$13.39
2024	\$9.63	\$14.46

A minimum bill based on 3,000 gallons will be charged for monthly usage between 0 to 3,000 gallons.

In addition, a monthly Capital Improvements rate of \$3.00 per 1,000 gallons of usage will be charged for sanitary sewer service for residential and commercial customers within the City's Utility Service Area.

(Ord. 2019-4342. Passed 7-1-19.)

929.08 WATER SERVICE RATES.

The monthly rates to be charged per thousand gallons for water service for residential and commercial customers within the City's Utility Service Area shall be as follows:

	In-Town	Out-Of-Town
Year	Water	Water
2016	\$4.48	\$6.72
2020	\$4.70	\$7.06
2022	\$4.94	\$7.41
2024	\$5.19	\$7.78

A minimum bill based on 3,000 gallons will be charged for monthly usage between 0 to 3,000 gallons.

A monthly Capital Improvements rate of \$3.00 per 1,000 gallons of usage will be charged for water service for residential and commercial customers within the City's Utility Service Area. (Ord. 2019-4342. Passed 7-1-19.)

929.09 GENERAL FEE SCHEDULE.

Each of the items in subsections (a) through (e) require payment of a thirty-five dollar (\$35.00) General Fee.

- (a) Water Turn On/Off required for the following:
 - Inspections
 - Non-Pay of water and/or sewer bill
 - Seasonal Turn on/off
 - Rental property Turn on/off
- (b) Water and Sewer Inspections:

Property owner unavailable or property not ready for scheduled inspection requiring additional scheduling

- (c) Emergency Repairs:
 - When a serviceman is needed in a plumbing type emergency.
- (d) Meter Testing:
 - When a meter is being tested for accuracy due to a billing dispute. The fee will only be charged to the customer if the meter was found to be functioning in accurate working order.
- (e) <u>Insufficient Funds:</u>
 - Or any other type of returned check situations. (Ord. 2010-3989. Passed 9-20-10.)

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TITLE FIVE - Other Public Services

Chap. 953. Garbage and Refuse Disposal. Chap. 955. Public Parks.

CHAPTER 953 Garbage and Refuse Disposal

953.01	Garbage hauling; authorized contract required.	953.07	Rules established; division of City into collection
953.02	Containers.		districts; rates and fees.
953.03	Unauthorized accumulation.	953.08	Service classifications and
953.035	Definitions.		rates authorized.
953.04	Scattering of refuse.	953.09	Payment procedures.
953.05	Points of collection.	953.99	Violations and Penalty.
953.06	Exclusive franchise for		•
	residential garbage collection.		

CROSS REFERENCES

Contracts with county garbage and rubbish disposal districts - see Ohio R.C. 343.08

Collection and disposal of garbage - see Ohio R.C. 715.43, 717.01 Disposal and transportation upon public ways - see Ohio R.C. 3767.20 et seq.

Vehicle loads dropping, sifting, leaking - see TRAF. 339.08 Littering - see GEN. OFF. 521.08

953.01 GARBAGE HAULING; AUTHORIZED CONTRACT REQUIRED.

No person shall engage in the business of hauling rubbish, refuse, or garbage within the corporate limits of the City unless authorized by contract with the City. (Ord. 94-3035. Passed 3-7-94.)

953.02 CONTAINERS.

- Property Owner or Occupant to Provide. Unless otherwise provided for by the hauler, refuse containers shall be provided by the owner, tenant, lessee, or occupant of the premises. Refuse containers shall be maintained in good condition. Any container that does not conform to the provisions of this chapter or that may have ragged or sharp edges or any other defect likely to hamper or injure the person collecting the contents thereof shall be promptly replaced upon notice. The hauler shall have the authority to refuse collection services for failure to comply herewith.
- Capacity. Garbage containers shall have a capacity as determined by the contracted waste hauler and in all cases shall be sufficient to prevent loose debris from strewing about and such that the waste hauler can completely remove the debris.

(1)Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

(2) Rubbish storage facilities. In addition to the provisions of subsection (a) above, the owner or other person in custody or control of any occupied property shall supply approved containers for rubbish, and the owner or other person in custody or control of any occupied property of the premises shall be responsible for the removal of rubbish. Rubbish containers shall be of a kind suitable for collection purposes.

(3)Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage by one of the following: an approved mechanical food-waste grinder, outside garbage container or approved garbage disposal facility.

Garbage facilities. The owner or other person in custody or control of any (4)occupied property shall supply approved garbage containers or an operating mechanical grinder as described in subsection (b)(3) above.

- Sanitation. Garbage containers shall be of a type approved by the contracted waste hauler, and shall be kept in a clean, neat and sanitary condition at all times.
- Storage of Refuse. No person shall place any refuse in any street, alley, or other (d) public place, or upon any private property whether owned by such person or not, within the City, except in proper containers for collection. Nor shall any person throw or deposit any refuse in any stream or other body of water. (Ord. 2011-4030. Passed 9-6-11.)

953.03 UNAUTHORIZED ACCUMULATION.

Any unauthorized accumulation of refuse on any premises is hereby declared to be a nuisance and is prohibited. Failure to remove any existing accumulation of refuse within thirty days after the effective date of this section shall be deemed a violation of this section. (Ord. 94-3035. Passed 3-7-94.)

953.035 DEFINITIONS.

- (a) Refuse, Junk or Trash. Combustible and noncombustible waste materials, except garbage; the term includes accumulations of combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust and other similar materials, the residue from the burning of wood, coal, coke. Excluded from this sub-section are any materials normally understood to be maintained for combustion in a residential fireplace or other "heating stove, barbeque or outdoor grill" so long as such materials are stacked, stored and/or maintained in appropriate piles or containers intended for such purposes, and materials commonly understood to be a component of landscaping or gardening.
- (b) <u>Garbage or Rubbish</u>. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.
- (c) <u>Accumulation of Rubbish or Garbage</u>. All exterior property and premises shall be free from any accumulation of rubbish or garbage. (Ord. 2011-4030. Passed 9-6-11.)

953.04 SCATTERING OF REFUSE.

No person shall cast, place, sweep or deposit anywhere within the City any refuse in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway, or other public place, or into any occupied premises within the City. (Ord. 94-3035. Passed 3-7-94.)

953.05 POINTS OF COLLECTION.

Refuse containers shall be placed for collection at ground level on the property, not within the right of way of a street or alley, and accessible to and not more than five feet from the side of the street or alley from which collection is made, provided that containers may be placed for collection at other than ground level and at a distance of more than five feet when approved by the City Administrator. (Ord. 94-3035. Passed 3-7-94.)

953.06 EXCLUSIVE FRANCHISE FOR RESIDENTIAL GARBAGE COLLECTION.

Council, after advertising for bids, has or will award a contract for an exclusive franchise to collect, transport and dispose of garbage, refuse, recyclables and yard waste for residential householders. (Ord. 94-3035. Passed 3-7-94.)

953.07 RULES ESTABLISHED; DIVISION OF CITY INTO COLLECTION DISTRICTS; RATES AND FEES.

The City Administrator, for the purpose of collecting and disposing of garbage and rubbish, is hereby authorized and directed to make such rules and regulations and prescribe such standards and fix such rates and fees as are necessary or convenient, including the division of the City into collection districts.

(Ord. 94-3035. Passed 3-7-94.)

953.08 SERVICE CLASSIFICATIONS AND RATES AUTHORIZED.

In cases where there are no established rates, the City Administrator is authorized to establish classifications of service and fix rates governing such classifications which shall be nondiscriminatory as to all others. When, as, and if such classifications are made and rates established, they shall have the same force and effect as though there were a part of this chapter. (Ord. 94-3035. Passed 3-7-94.)

953.09 PAYMENT PROCEDURES.

Each householder or commercial establishment shall pay in the manner provided by the City Administrator. (Ord. 94-3035. Passed 3-7-94.)

953.99 VIOLATIONS AND PENALTY.

- (a) Whenever the Code Enforcement Official determines that there has been a violation of Chapter 953, or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed to the person responsible for the violation as specified:
 - (b) Notice shall be in accordance with all of the following:
 - (1) Be in written form.
 - (2) Include the address or a description of the real estate sufficient for identification.
 - (3) Include a statement of the violation or violations and why the notice is being issued.
 - (4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of Chapter 953.
 - (5) Inform the property owner of the right to appeal.
 - (6) Notice shall be posted on the property immediately.
 - (7) Notice shall be mailed by First Class Mail to the occupant and the owner of record (if a different address) and to any mortgage company holding a mortgage lien on the property. Certified mail, return receipt mail, UPS or other method of documenting delivery shall also be sent to the owner of record.
- (c) Any person violating any of the provisions of this chapter shall be fined in an amount not exceeding five hundred dollars (\$500.00). Each day such violation is committed or permitted to continue shall constitute a separate offense. (Ord. 2008-3853. Passed 6-2-08.)

CHAPTER 955 Public Parks

955.01	Definitions.	955.08	Fires.
	Hours of operation.		Domestic animals.
	Personal conduct.		Wild animals.
	Removal or destruction of		Vehicular traffic.
, , , , , ,	property and natural	955.12	Ejection from parks.
	features.		Fishing.
955.05	Deposit of material.	955.14	Tobacco use prohibited.
	Alcoholic beverages and	955.99	Penalty.
	illegal substances.	, , , , ,	<i>,</i>
955.07	Firearms; weapons and		
	explosives.		

955.01 DEFINITIONS.

As used in this chapter:

- (a) "Park and Recreation Board" means the Board created under Section 7.04(A) of the Charter.
- (b) "Park Director" means the Director appointed by the Park and Recreation Board.
- "Fish or fishing" means taking or attempting to take fish by any method, and all other acts such as placing, setting, drawing or using any device commonly used to fish whether resulting in such taking or not.
- (d) "Motor vehicle" means any vehicle propelled or drawn by power other than muscular power, including but not limited to, automobiles, all-purpose vehicles, non-highway motorcycles, snowmobiles and motorized scooters or skateboards.
- (e) "Officer" means a City police officer, the Park Director or any agent or employee of either.
- (f) "City park" means any land or water owned, leased or otherwise operated and controlled by the City for recreational open space or similar and related purpose.
- (g) "Park waters" means any lake, pond, reservoir, stream, pool, channel, lagoon, or other body of water, or any part thereof, whether natural or artificial, located in or adjoining a park. (Ord. 2007-3817. Passed 10-15-07.)

955.02 HOURS OF OPERATION.

No person shall enter or remain in the park except during the permitted hours of use that are established by City Council or the City Administrator.

Specific event times may be established by the Parks and Recreation Advisory Board or by the Park Director, acting within the guidelines established by the Board. (Ord. 2007-3817. Passed 10-15-07.)

955.03 PERSONAL CONDUCT.

- (a) <u>Disorderly Conduct</u>. No person shall conduct himself or herself, by act or word, in a disorderly, boisterous, riotous or other manner so as to disturb the peace and good order in a City Park.
- (b) <u>Abusive Language</u>. No person shall use abusive, insulting, indecent or threatening language in a City Park.
- (c) <u>Gambling.</u> No person shall solicit or procure participants for, engage in or promote any game which is played for money or any other thing of value in a City Park.
- (d) <u>Loitering.</u> No person shall loiter in the vicinity of shelters, equipment, restrooms or other facilities in a City Park. No person shall enter facilities in a City Park designated for the opposite sex.
- (e) <u>Indecent Exposure</u>. No person shall make an indecent exposure of his or her person in a City Park.
- (f) <u>Assault.</u> No person shall assault or threaten another in a menacing manner or strike or wound another in a City Park.
- (g) Resisting or Obstructing an Officer. No person shall resist, obstruct or abuse an officer in a City Park while such officer is engaged in the lawful execution of his or her duties. (Ord. 2007-3817. Passed 10-15-07.)

955.04 REMOVAL OR DESTRUCTION OF PROPERTY AND NATURAL FEATURES.

- (a) No person in a City Park shall remove any property, natural feature or part thereof included, but not limited to, any building, equipment, sign, rock, stone, mineral foundation, earth, wood, tree, shrub, flower, plant, nut or other seed from a City Park.
- (b) No person in a City Park shall injure, destroy, break, cut, chop, write upon, mutilate, set fire to, deface, dig, paint or damage any property, natural feature or part thereof, including but not limited to, any building, equipment, sign, rock, stone, mineral foundation, earth, wood, tree, shrub, flower, plant.
- (c) No person in a City Park shall impound or cause to be impounded any park water or in any other way alter or affect the natural flow of such waters. (Ord. 2007-3817. Passed 10-15-07.)

955.05 DEPOSIT OF MATERIAL.

- (a) No person shall deposit, discard, dump or leave behind any material of any kind in a City Park, except materials arising from the normal use and enjoyment of a City Park and then only in receptacles provided for this purpose.
- (b) No person shall, adjacent to a City Park, deposit, discard, dump or leave behind any noxious or waste material, including but not limited to, paper, garbage, ashes or refuse which may blow, wash or be otherwise transported into a City Park.
- (c) No person in or adjacent to a City Park shall place or permit to be placed in any City Park waters any noxious or deleterious substance, either solid or liquid which may render such waters harmful to the public health, animal or plant life. (Ord. 2007-3817. Passed 10-15-07.)

955.06 ALCOHOLIC BEVERAGES AND ILLEGAL SUBSTANCES.

No person shall possess or make use of any type of alcoholic beverage or illegal substance in a City Park. (Ord. 2007-3817. Passed 10-15-07.)

955.07 FIREARMS; WEAPONS AND EXPLOSIVES.

Unless otherwise authorized by Council, whether by Council or the City Administrator pursuant to the authority delegated by Council:

(a) No person shall carry on or about his person any firearm of any description, bows or arrows, air or gas guns, missiles, or sling shots while in a City Park.

(b) No person shall discharge a firearm of any description, bow or arrow, air or gas gun, missile or sling shot while in a City Park.

(c) No person shall bring into, fire, or have in his or her possession fireworks or explosives of any kind while in a City Park.

(d) This section shall not apply to police officers engaged in the lawful execution of their duties. (Ord. 2007-3817. Passed 10-15-07.)

955.08 FIRES.

- (a) No person shall start or maintain a fire in a City Park except in a fireplace, grill or other site designated for such purpose.
- (b) No person having started a fire in a designated area shall leave the fire unattended or leave the vicinity of the fire without first fully extinguishing the fire.
- (c) No person shall deposit or scatter hot coals or ashes in any place in a City Park, other than in a receptacle designated for such purpose. (Ord. 2007-3817. Passed 10-15-07.)

955.09 DOMESTIC ANIMALS.

Unless authorized by Council, or the City Administrator operating pursuant to delegated authority by the City Council, no person shall be permitted to have domestic animals in the City Parks unless they are on a leash. There will be no domestic animals on groomed areas. The only exception will be service dogs that are on a leash and controlled. (Ord. 2011-4053. Passed 12-5-11.)

955.10 WILD ANIMALS.

Unless otherwise authorized by Council, whether by Council or the City Administrator pursuant to the authority delegated by Council:

- (a) No person shall hunt, trap or in any way abuse, molest, injure, pursue, remove or destroy any natural animal found in a City Park.
- (b) No person shall move, injure, molest or destroy any animal habitation in a City Park.
- (c) No person shall abandon any animal in a City Park. (Ord. 2007-3817. Passed 10-15-07.)

955.11 VEHICULAR TRAFFIC.

- (a) <u>Driving in Permitted Areas.</u> No person shall operate a motor vehicle, as defined in Section 955.01, in a City Park, except on and within the roads and paths provided for such motor vehicles. The operation of a motor vehicle on grass in a City Park is explicitly prohibited. No person shall operate a motor vehicle on roads or paths in violation of signs designating the roads and paths for the use of a specific type of vehicle.
- (b) <u>Excluded Motor Vehicles.</u> No person shall operate an all terrain vehicle or dirt bike in any City Park without written authorization.
- (c) <u>Reckless Operation.</u> No person shall operate a motor vehicle, as defined in Section 955.01, in a City Park in such a manner as to endanger the operator, another person or property.
- (d) Speed. No person shall operate a motor vehicle, as defined in Section 955.01, in excess of the posted speed limit of 15 MPH.
- (e) Parking. No person shall park any motor vehicle, as defined in Section 955.01, in a City Park except in places designated for such purpose. (Ord. 2007-3817. Passed 10-15-07.)

955.12 EJECTION FROM PARKS.

Officers, as defined in Section 955.01, are hereby authorized to order any person found violating any provision of this chapter to leave the City Park. (Ord. 2007-3817. Passed 10-15-07.)

955.13 FISHING.

- (a) Fishing shall be permitted in City of Pataskala Park waters, except in open swimming areas or where specifically prohibited.
- (b) Everyone, who engages in fishing, shall obey all posted guidelines, and comply with all applicable City, State and Federal laws and regulations, including having a valid license if a license is required.
- (c) If a fee is charged by the City for fishing in Park waters, no person shall fish in such waters without paying that fee.
 - (d) No person shall use lead fishing weights.

- (e) Everyone, who engages in fishing, shall remove all fishing line fragments and hooks from land and waters once done fishing.
- (f) All fish caught in Park waters shall be immediately released. The current Ohio Department of Natural Resources Catch and Release guidelines shall be followed.
- (g) No person shall use traps, buckets, nets, spears, bows and arrows, barbed hooks or similar devices to catch fish.
- (h) Fishing shall be conducted only with a rod and reel; with a maximum of one rod and one reel per person.
 - (i) Fishing shall be conducted only from the shore/edge of the water.
- (j) At the City's sole discretion, the fish population will be controlled as deemed necessary, through means approved by City to include, but not limited to fishing derbies and Citysponsored fishing events.
- (k) Unauthorized stocking or dumping of fish or bait is prohibited. (Ord. 2019-4345. Passed 9-3-19.)

955.14 TOBACCO USE PROHIBITED.

(a) <u>Purpose.</u> The City of Pataskala is committed to providing a safe and healthy environment for its residents and visitors who use the City's many recreational areas. Tobacco use is the leading cause of preventable death and disease in the United States, and the U.S. Surgeon General determined there is no risk-free level of exposure to secondhand smoke.

Electronic delivery devices, more commonly referred to as electronic cigarettes or e-cigarettes typically contain nicotine, which is highly addictive, and their use: (1) closely resembles and purposefully mimics the act of smoking; (2) produces an aerosol or vapor of undetermined and potentially harmful substances; (3) is increasing among adults and youth; (4) is especially concerning among youth because of the negative impacts of nicotine on the developing adolescent brain; (5) threatens to re-normalize smoking, potentially jeopardizing tobacco control efforts of the past and present; and (6) creates confusion and leads to difficulties enforcing smoking prohibitions.

Cigarettes and smokeless tobacco products once consumed in public spaces often become litter and require additional maintenance expenses. This litter diminishes the beauty and animal little of the Cityle posts (page 2011) in the cityle posts (page 2011)

enjoyability of the City's park/recreational facilities.

The City of Pataskala believes tobacco use is detrimental to the public's health and has determined that prohibiting the use of tobacco products and electronic delivery devices in all recreational areas serve to protect the public's health, safety and welfare.

(b) <u>Definitions</u>.

(1) "All times" means twenty-four hours a day, seven days a week.

"Electronic delivery device" means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of aerosol or vapor from the product. The term includes, but is not limited to, devices manufactured, distributed, marketed or sold as e-cigarettes, e-cigars, e-pipes, vape pens, or e-hookah.

- "Recreational areas" mean all facilities, parks, trails, open space, and other property owned, leased, rented, contracted, used, or controlled by City of Pataskala for parks and recreational purposes. The term includes, but is not limited to, restrooms, spectator and concession areas, playgrounds, athletic fields, beaches, and aquatic areas.
- (4) "Smoke or smoking" means inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other tobacco or plant product, or inhaling or exhaling aerosol or vapor from any electronic delivery device. Smoking includes being in possession of a lighted or heated cigar cigarette, pipe, or any other tobacco or plant product intended for inhalation, or an electronic delivery device that is turned on or otherwise activated.
- (5) "Tobacco or tobacco product" means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigarettes; cigars and other smoking tobacco; snuff and other chewing tobacco; electronic delivery devices; and any other kinds and forms of tobacco. The term excludes any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.
- (6) "Tobacco use" means the act of smoking, the use of smokeless tobacco, the use of an electronic delivery devise, or the use of any other tobacco product.
- (c) <u>Prohibition.</u> Tobacco use is prohibited at all times in or on all recreational areas or within 100 feet of a recreational area, except in designated parking lot area locations specified by the City of Pataskala.

Tobacco use as part of a Native American spiritual or cultural ceremony, is not a violation of this section if the tobacco use is requested in advance, and the City Manager, or his designee, approves the request prior to the ceremony.

(d) Signage shall be posted at conspicuous locations to inform residents, visitor, and recreational area users about the policy. (Ord. 2019-4351. Passed 11-18-19.)

955.99 PENALTY.

Whoever violates or fails to comply with any provisions of this chapter shall be fined not more than one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues. (Ord. 2007-3817. Passed 10-15-07.)

CODIFIED ORDINANCES OF PATASKALA PART ELEVEN - PLANNING CODE

TITLE ONE - Subdivision Regulations
Chap. 1105. Title, Scope and Jurisdiction.
Chap. 1109. Definitions.
Chap. 1113. Major Subdivisions.
Chap. 1115. Minor Subdivisions.
Chap. 1117. Design Standards.
Chap. 1110. Starmywater Management.

Chap. 1119. Stormwater Management.
Chap. 1121. Improvement Requirements.
Chap. 1123. Administration and Enforcement.

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CODIFIED ORDINANCES OF PATASKALA

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Chap. 1117. Design Standards.

Chap. 1119. Stormwater Management. Chap. 1121. Improvement Requirements.

Chap. 1123. Administration and Enforcement.

CHAPTER 1105 Title, Scope and Jurisdiction

EDITOR'S NOTE: The Subdivision Regulations of the City of Pataskala were adopted by Ordinance 2001-3376, passed March 5, 2001. Subsequent amendments to Ordinance 2001-3376 will be indicated by legislative histories placed at the end of the new or amended sections.

1105.01 Title. 1105.05 Amendments. 1105.02 Administration. 1105.06 Separability. Jurisdiction. 1105.03

1105.04 Relation to other laws.

> **CROSS REFERENCES** Jurisdiction - see Ohio R.C. 711.09 Interpretation - see ADM. Ch. 101

1105.01 TITLE.

These regulations shall be known and may be cited and referred to as the "Subdivision Regulations of the City of Pataskala, Ohio", and shall hereinafter be referred to as "these regulations".

1105.02 ADMINISTRATION.

These regulations shall be administered by the Pataskala Planning and Zoning Commission hereinafter referred to as "the Planning and Zoning Commission".

1105.03 JURISDICTION.

These regulations shall be applicable to all subdivisions of land within the City of Pataskala. The Planning and Zoning Commission shall have the power of final approval of these plats.

1105.04 RELATION TO OTHER LAWS.

The provisions of these regulations shall supplement any and all laws of the State of Ohio, ordinances of the City, or any and all rules and regulations promulgated by authority of such law or ordinance relating to the purpose and scope of these regulations. Whenever the requirements of these regulations are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or resolution, the most restrictive or that imposing the high standards shall govern.

1105.05 AMENDMENTS.

These regulations may be amended, after public hearings and other requirements as specified in the appropriate section of the Ohio Revised Code.

1105.06 SEPARABILITY.

If for any reason, any clause, sentence, paragraph, section or other part of these regulations should be decided by a court of competent jurisdiction to be invalid, such judgment shall not affect the validity of these regulations as a whole, or any part thereof, other than the part so held to be invalid.

CHAPTER 1109 Definitions

1109.01 Interpretation of terms or words.

CROSS REFERENCES
Plat and subdivision defined - see Ohio R.C. 711.001
General definitions - see ADM. 101.02

1109.01 INTERPRETATION OF TERMS OR WORDS.

For the purpose of these regulations, certain terms or words used herein shall be interpreted as follows:

- (a) The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- (b) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- (c) The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.
- (d) The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied".
- (e) The word "lot" includes the words "plot" or "parcel".

Alley: See Thoroughfare.

Appropriate Authority: Those federal, state or local agencies or departments, with expertise or interests in a given area, from which recommendations and/or approvals may be required. (Example: OEPA, ODOT, ODNR, OWDA, BPA, COUNTY HEALTH DEPT, ETC.)

Building Line: See Setback Line.

<u>Channel:</u> A natural stream that conveys water; a ditch or channel excavated for the flow of water.

Comprehensive Development Plan: A plan, or any portion thereof, adopted by the Planning and Zoning Commission and/or the legislative authority of the City of Pataskala showing the general location and extent of present and proposed physical facilities including housing, industrial, and commercial uses, major streets, parks, schools, and other community facilities. This plan establishes the goals, objectives, and policies of the community.

Corner Lot: See Lot Types.

Covenant: A written promise or pledge.

Cul-de-Sac: See Thoroughfare.

<u>Culvert:</u> A transverse drain that channels under a bridge, street, or driveway.

<u>Dead-End Street:</u> See Thoroughfare.

Density: A unit of measurement; the number of dwelling units per acre of land.

(1) <u>Gross Density:</u> The total number of dwelling units per acre of the total land to be developed.

(2) <u>Net Density:</u> The total number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

<u>Density</u>, <u>Low Residential</u>: Land to be utilized for residential purposes, including public housing and industrialized units, which does not exceed two (2) dwelling units per gross acre.

<u>Density</u>, <u>Medium-Low Residential</u>: Land to be utilized for residential purposes, including public housing and industrialized units, which does not exceed four (4) dwelling units per gross acre. For the purposes of street design requirements, the medium-low density residential classification shall be considered as medium density.

<u>Density</u>, <u>Medium Residential</u>: Land to be utilized for residential purposes, including public housing and industrialized units, which does not exceed eight (8) dwelling units per gross acre.

<u>Density</u>, <u>Medium-High Residential</u>: Land to be utilized for residential purposes, including public housing and industrialized units, which does not exceed sixteen (16) dwelling units per gross acre. For the purposes of street design requirements, the medium-high density residential classification shall be considered as high density.

<u>Density</u>, <u>High Residential</u>: Land to be utilized for residential purposes, including public housing and industrialized units, which does not exceed thirty-two (32) dwelling units per gross acre.

<u>Developer:</u> Any individual, subdivider, firm, association, syndicate-partnership, corporation, trust, or any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself or for another.

<u>Development Area:</u> Any contiguous (abutting) area owned by one person or operated as one development unit and used or being developed for non-farm commercial, industrial, residential, or other non-farm purposes upon which earth-disturbing activities are planned or underway.

<u>Dwelling Unit:</u> Space, within a building, comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing, and toilet facilities, all used by one (1) family and its household employees.

<u>Easement:</u> Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

<u>Engineer:</u> Any person registered to practice professional engineering by the State Board or registration as specified in Ohio R.C. 4733.14.

<u>Floodway:</u> The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

<u>Flood Fringe:</u> That portion of the flood plain, excluding the floodway, where development may be allowed under certain restrictions.

<u>Flood Plain or Flood Prone Area:</u> Any land area susceptible to being inundated by water from any source.

<u>Improvements:</u> Street pavement or resurfacing, curbs, gutters, sidewalks, water and wastewater lines, storm drains, street lights, flood control and drainage facilities, utility lines, landscaping, and other related matters normally associated with the development of raw land into building sites.

Location Map: See Vicinity Map.

<u>Lot:</u> For purposes of these regulations, a lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, and may consist of:

(1) A single lot of record.

(2) A portion of a lot of record.

A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.

<u>Lot Frontage</u>: The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under Yards in this section.

<u>Lot</u>, <u>Minimum Area of</u>: The area of a lot is computed exclusive of any portion of the right-of-way of any public or private street, and any other easements of record.

Lot Measurements: A lot shall be measured as follows:

- (1) Depth of a lot shall be considered to be the distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- (2) Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the building setback line, provided, however, that the width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than 80 percent of the required lot width.

<u>Lot of Record:</u> A lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

<u>Lot Types:</u> Terminology used in these regulations with reference to corner lots, interior lots, and through lots is as follows:

- (1) A corner lot is defined as a lot located at the intersection of two of more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.
- (2) An interior lot is a lot other than a corner lot with any one frontage on a street.
- (3) A through lot is a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
- (4) A reversed frontage lot is a lot on which frontage is at right angles to the general pattern in the area. A reverse frontage lot may also be a corner lot.

Major Thoroughfare Plan: The comprehensive plan adopted by the Planning and Zoning Commission indicating the general location recommended for arterial, collector, and local thoroughfares within the corporate limits of the City and/or unincorporated areas within one and one-half (1 ½) miles thereof.

Minor Subdivision: A division of a parcel of land that does not require a plat to be approved by a planning authority according to Ohio R.C. 711.131. Also known as Lot Split.

Monuments: Permanent concrete or iron markers used to establish definitely all lines of the plat of a subdivision, including all lot corners, boundary lines corners, and points of change in street alignment.

Open Space: An area open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, swimming pools, tennis courts, and other recreational facilities that the Planning and Zoning Commission deems permissive. Streets, structures for habitation, and the like shall not be included.

Original Tract: A tract may be an original tract as to one owner but not the other. A tract completely subdivided can be further subdivided by any party who purchases or obtains title to a lot or parcel in the subdivision large enough to subdivide without conflicting with local platting, subdivision, or zoning regulations.

Out Lot: Property shown on a subdivision plat outside of the boundaries of the land which is to be developed and which is to be excluded from the development of the subdivision.

<u>Pad:</u> A building site prepared by artificial means, including, but not limited to, grading, excavation, or filling, or any combination thereof.

<u>Parking Space, Off-Street:</u> For the purpose of these regulations, an off-street parking space shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but shall be located totally outside of any street or alley right-of-way.

<u>Performance Bond or Surety Bond:</u> An agreement by a subdivider or developer with the City for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the subdivider's agreement.

<u>Plan:</u> The map, drawing, or chart containing the developer's plan for a subdivision is presented to the Planning and Zoning Commission for approval (sketch and preliminary).

<u>Plat:</u> The map, drawing, or chart on which the developer's plan of subdivision is presented to the Planning and Zoning Commission for approval and, after such approval, to the County Recorder for recording.

<u>Public Way:</u> An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk, or other ways in which the general public or a public entity has a right, or which are dedicated, whether improved or not.

<u>Right-of-Way:</u> A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

<u>Setback Line:</u> A line established by the Subdivision Regulations and/or Zoning Ordinance, generally parallel with and measured from the lot line, defining the limits of a yard in which no building, other than accessory building, or structure may be located above ground, except as may be provided in said Codes. (See Yards)

<u>Sewers, Central or Group:</u> An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community, or region.

<u>Sewers, On-Site:</u> A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.

<u>Sidewalk:</u> That portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic. See Walkway.

Subdivider: See Developer.

Subdivision:

- (1) The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two (2) or more parcels, sites, or lots any one of which is less than five (5) acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the division or partition of land into parcels of more than five (5) acres not involving any new streets or easements of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempted.
- (2) The improvement of one or more parcels of land for residential, commercial, or industrial structures or groups of structures involving the division or allocation of land for the opening, widening, or extension of any street or streets except private streets serving industrial structures, the division or allocation of land as open spaces for common use by owners, occupants, or lease holders, or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities. (See Minor Subdivision)

<u>Surveyor:</u> Any person registered by the State of Ohio to practice professional surveying.

<u>Thoroughfare</u>, <u>Street or Road</u>: The full width between property lines bounding every public way or whatever nature, with a part thereof to be used for vehicular traffic and designated as follows:

- (1) <u>Alley:</u> A minor street used primarily for vehicular service access to the back or side of properties abutting on another street.
- (2) <u>Arterial Street:</u> A general term denoting a highway primarily for through traffic, carrying heavy loads and a large volume of traffic, usually on a continuous route.
- (3) <u>Collector Street:</u> A thoroughfare, whether within a residential, industrial, commercial, or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within a residential subdivision.
- (4) <u>Cul-de-Sac:</u> A local street of relatively short length with one (1) end open to traffic and the other end terminating in a vehicular turnaround.
- (5) <u>Dead-End-Street:</u> A street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.
- (6) <u>Local Street:</u> A street primarily for providing access to residential, commercial, or other abutting property.
- (7) <u>Loop Street:</u> A type of local street, each end of which terminates at an intersection with the same arterial or collector street, and whose principal radius points of the 180 degree system of turns are not more than 1,000 feet from said arterial or collector street, nor normally more than 600 feet from each other.
- (8) <u>Marginal Access Street:</u> A local or collector street, parallel and adjacent of an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets. (Also called Frontage Streets)

Through Lot: See Lot Types.

<u>Variance</u>: A variance is a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

<u>Vicinity:</u> A drawing located on the plat or plan which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within Licking County and the City in order to better locate and orient the area in question.

<u>Walkway:</u> A dedicated public way, four (4) feet or more in width, for pedestrian use only, whether along the side of a road or not.

<u>Watershed:</u> The drainage basin in which the subdivision drains or that land whose drainage is affected by the subdivision.

<u>Grassed Water-way:</u> A broad or shallow natural course or constructed channel covered with erosion-resistant grasses or similar vegetative cover and used to conduct surface water.

<u>Yard</u>: A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from three (3) feet above the general ground level of the graded lot upward, provided, accessories, ornaments, and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.

(1) Yard, Front: A yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.

(2) <u>Yard, Rear:</u> A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.

(3) <u>Yard, Side:</u> A yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards.

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CHAPTER 1113 Major Subdivisions

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CROSS REFERENCES

Plat and contents - see Ohio R.C. 711.01 et seq. Plat acknowledgment and recording - see Ohio R.C. 711.06 Plat approval - see Ohio R.C. 711.09

1113.01 MAJOR SUBDIVISION CRITERIA.

A major subdivision is the creation of six (6) or more lots, including the remainder, from the original parcel and/or the creation or extension of any roads or easements of access. (Ord. 2018-4312. Passed 3-19-18.)

1113.02 PRE-APPLICATION PLAN CONFERENCE REQUIRED.

- (a) The purpose of the Pre-Application Conference is to provide the Subdivider with feedback from city staff thereby allowing the Subdivider to evaluate a proposed major subdivision at an early stage in the process prior to formal application.
- (b) Those who intend to develop a major subdivision shall meet with city staff prior to application to provide a clear understanding of the major subdivision requirements and process. (Ord. 2018-4312. Passed 3-19-18.)

1113.03 PRE-APPLICATION PLAN CONTENTS.

Subdividers who plan on attending a Pre-Application Conference should prepare a plan, legibly drawn at a 1 inch = 100 feet scale, containing the following information:

- (a) The proposed major subdivision in relation to existing community facilities, showing all existing streets, adjoining properties within 500 feet in all directions, thoroughfares, and other transportation modes, shopping centers, manufacturing facilities, residential developments and existing natural and manmade features such as soil types, vegetation, contours, easements and utilities in the neighboring areas.
- (b) The layout of streets, right-of-way and pavement widths, size of lots, and any non-residential sites such as commercial, manufacturing, institutional or recreational uses within the proposed major subdivision.
- (c) The location of all utilities in the proposed major subdivision if already in place, or the locations of the nearest public facilities for the supply of water, and the disposal of wastewater and storm water.
- (d) The scale and title of the major subdivision, a north arrow, and the date the plan was prepared.
- (e) Name, address and contact information of the property owner and the Subdivider. (Ord. 2018-4312. Passed 3-19-18.)

1113.04 PRELIMINARY DEVELOPMENT PLAN REQUIRED.

The purpose of the Preliminary Development Plan is to provide the Planning and Zoning Commission with sufficiently detailed information to evaluate a major subdivision. The plan shall indicate all of the information needed to enable the Planning and Zoning Commission to determine whether the proposed development meets the requirements of these regulations and the zoning code and whether the proposed public improvements and utilities are acceptable to the appropriate offices, agencies and governmental bodies having jurisdiction. (Ord. 2018-4312. Passed 3-19-18.)

1113.05 PRELIMINARY DEVELOPMENT PLAN APPLICATION.

Upon initial Preliminary Development Plan application, the City Administrator or their designee shall make a determination of the completeness of the application as it complies with this section. The City Administrator or their designee shall have the right to reject any Preliminary Development Plan application that is determined to be incomplete. If the application is rejected as incomplete, the City will make a good faith effort to advise the Subdivider the manner in which the application is incomplete. An application shall be considered officially submitted and filed when the City Administrator or their designee finds that the following have been provided:

(a) A Preliminary Development Plan application form provided by the Planning and Zoning Department and the proper filing fees.

(b) The appropriate number of copies of the Preliminary Development Plan, as determined by the City Administrator or their designee, containing the information outlined in Section 1113.06. Reduced size copies may be required.

(c) An electronic copy of all items submitted as a Portable Document Format (pdf) file

or other acceptable format.

(d) A cover letter detailing the contents and purpose of the Preliminary Development Plan submittal.

Within five (5) working days after the Preliminary Development Plan application has been determined to be complete, the City Administrator or their designee shall distribute copies to other departments and agencies as the City Administrator or their designee deems necessary for a proper review, including but not limited to the Pataskala Utility Department, Pataskala City Engineer, Pataskala Police Department, Pataskala Public Service Department, West Licking Joint Fire District, Licking County Health Department and the South West Licking Community Water and Sewer District.

Complete Preliminary Development Plan applications shall be scheduled to be heard by the Planning and Zoning Commission at the next Planning and Zoning Commission hearing as indicated on the adopted Planning and Zoning Commission hearing schedule. Special Planning and Zoning Commission hearings may be scheduled for extenuating circumstances as determined by the City Administrator or their designee. (Ord. 2018-4312. Passed 3-19-18.)

1113.06 PRELIMINARY DEVELOPMENT PLAN CONTENTS.

The Preliminary Development Plan shall be shown at a scale not less than 100 feet to the inch and shall be on one (1) or more sheet 22 inches by 34 inches in size and include the following:

- (a) Proposed name of the Major Subdivision. To avoid confusion, the name shall not duplicate or closely resemble the name of any other Major Subdivision or development within the City of Pataskala or Licking County.
- (b) Title sheet including the date the plan was prepared.
- (c) Location by Section, Range, and Township or other official surveys.
- (d) Names, addresses, and contact information of the property owner(s), the Subdivider, the Ohio Registered Engineer and/or the Ohio Registered Surveyor who prepared the plan and the appropriate seals and registration numbers of each,
- (e) Date of survey, scale of plan and north arrow.
- (f) Boundaries of the Major Subdivision, its acreage, and deed book and page number of lands within the proposed Major Subdivision.
- (g) Names of adjacent subdivisions, owners of adjoining parcels and the location of their boundary lines.

- (h) Locations, widths, and names of existing streets, rail road rights of way, easements, parks, permanent buildings, corporation and township boundaries, wooded areas, natural features, drainage, 100-year flood plain, existing permanent and temporary structures, and burial grounds and other areas of archeological significance within and adjacent to the Major Subdivision for a minimum distance of 200 feet.
- (i) Locations of all wetlands, ponds, watercourses and other naturally occurring water features on the property, or lack thereof, and certified by a professional engineer, registered in the State of Ohio. A note shall be placed on the plan if no naturally occurring watercourses exist on the property. All naturally occurring water features shall include a minimum 25-foot buffer as measured from the edge of the water feature.
- (j) Location, names and widths and typical cross section and right of way width of proposed streets. Street names shall not duplicate or closely resemble the name of any other street, highway or road in the City of Pataskala or Licking County.
- (k) Location, widths and description of proposed easements. All lots shall have a minimum five (5) foot easement along the property line of the side and rear yards if determined to be necessary by the City Administrator or their designee.
- (1) Building setback lines with dimensions.
- (m) Location and dimensions of all proposed public and private utilities, water, wastewater, storm drain lines, detention and/or retention facilities showing their locations and connections with the existing system. All new utilities shall be located underground.
- (n) Layout, lot number, acreage and dimensions of each lot. When a lot is located on a curved street, or when side lot lines are not at 90 degree angles, the width at the building line shall be shown.
- (o) Parcels of land in acres to be reserved for public use, or to be reserved by covenant for residents of the subdivision.
- (p) The location and width of sidewalks and paths.
- (q) The location of all street lights. Street lights shall have a maximum spacing of 200 feet and be staggered on opposite sides of the street. At least one street light shall be located at an intersection.
- (r) A vicinity map at a scale of not less than 2,000 square feet to the inch. This map shall depict all existing subdivisions, roads, road rights of way, tract lines and the nearest existing intersections and thoroughfares. It shall also show the most advantageous connections between roads in the proposed Major Subdivision and those of the neighboring area.
- (s) A Tree Replacement Survey and Landscaping Plan pursuant to Chapter 1283.
- (t) Statement of proposed use of all lots, giving types, number of dwelling units and any type of commercial, industrial or institutional activity.
- (u) Proposed phasing plan of the Major Subdivision if applicable
- (v) Required statements and signatures to be affixed on the Preliminary Development Plan. (Ord. 2018-4312. Passed 3-19-18.)

1113.07 PRELIMINARY DEVELOPMENT PLAN SUPPLEMENTARY INFORMATION.

The following information shall be supplied in addition to the requirements in Section 1113.06 as required by the City Administrator or their designee:

- (a) Any variances that would be required as part of the Preliminary Plan.
- (b) Location and approximate dimensions of all existing buildings.

- (c) A copy of the proposed covenants and restrictions. Such covenants and restrictions must be acceptable to the Licking County Health Department, if applicable. Where central water and/or sewer is provided, a restriction requiring connection to such systems shall be included.
- (d) A copy of the proposed Homeowner's Association bylaws, if applicable, to include a description of the areas to be maintained by the Homeowner's Association, a timeline for transfer of control from the Subdivider to the property owner's, the requirement that all lots owners shall be a member of the Homeowner's Association, an account of the powers the association shall have in collecting dues and a storm water facility management plan.
- (e) The extension or improvements, including any oversize requirements to the City of Pataskala Water and Wastewater Treatment Systems that may be required by the City, to be constructed by the Subdivider at the Subdivider's expense, and according to all City requirements.
- (f) Calculations that develop the water and sanitary sewer demand rates for the subdivision.
- (g) A statement indicating the proposed water and wastewater service including evidence of approval by the Licking County Health Department or appropriate authority.
- (h) A Storm Water Drainage Report indicating compliance with all current storm water regulations.
- (i) All plans and applications necessary to obtain a National Pollutant Discharge Elimination System (NPDES) permit as required.
- (j) Traffic Impact Study
- (k) Verification that an application, if required, has been submitted to the Ohio Environmental Protection Agency in compliance with Section 401 of the Clean Water Act in which anyone who wishes to discharge dredged or fill material into waters of the United States must obtain a Water Quality Certification Permit from the Ohio Environmental Protection Agency. In the case of an isolated wetland, either a general state or individual state isolated wetland permit must be obtained from the Ohio Environmental Protection Agency
- (l) Other information that may be required by the City Administrator or their designee.
 (Ord. 2018-4312. Passed 3-19-18.)

1113.08 PRELIMINARY DEVELOPMENT PLAN CONFERENCE.

A Preliminary Plan Conference may be required by the City Administrator or their designee, or requested by the Subdivider, prior to the City of Pataskala Planning and Zoning Commission hearing. (Ord. 2018-4312. Passed 3-19-18.)

1113.09 PRELIMINARY DEVELOPMENT PLAN PUBLIC HEARING.

The Planning and Zoning Commission shall hold a public hearing prior to any action being taken on a Preliminary Development Plan application. (Ord. 2018-4312. Passed 3-19-18.)

1113.10 PRELIMINARY DEVELOPMENT PLAN NOTIFICATION.

Written notice of the public hearing to be held for a Preliminary Development Plan application shall be mailed to all adjoining property owners of record within 300 feet of any property line of the subject property by first class mail, and given in one (1) or more newspapers of general circulation in the City at least 10 days before the date of the public hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed Preliminary Development Plan application. Notice of the public hearing shall be mailed by the Planning and Zoning Department by first class mail. Failure to deliver notice, as provided in this section, shall not invalidate any action taken by the Planning and Zoning Commission. (Ord. 2018-4312. Passed 3-19-18.)

1113.11 APPROVAL OF PRELIMINARY DEVELOPMENT PLAN.

- (a) The Planning and Zoning Commission shall determine whether a Preliminary Development Plan is approved, approved with conditions or disapproved. Notice of the decision of the Planning and Zoning Commission shall be communicated to the Subdivider in writing within five (5) days of the Planning and Zoning Commission hearing. Approval of a Preliminary Development Plan shall be based upon compliance with applicable regulations and input from city departments and other applicable departments and agencies.
- (b) If a Preliminary Development Plan is approved by the Planning and Zoning Commission, the Subdivider shall submit one (1) copy of the Preliminary Development Plan, with any required revisions, to the Planning and Zoning Department. The Preliminary Development Plan shall be legibly drawn in black ink on matte mylar material or other approved material of equal permanence. It shall be drawn at a scale no less than 100 feet to the inch on one (1) or more sheets 22 inches by 34 inches in size. If more than one (1) sheet is necessary, each sheet shall be numbered and the relation of one (1) sheet to another clearly indicated. The signatures and dates for the Subdivider or representative and a registered engineer or surveyor shall be on the Preliminary Development Plan at the time it is submitted. The Subdivider may submit additional copies of the Preliminary Development Plan for signatures if desired.
- (c) Once the City Administrator or their designee determines that the Preliminary Development Plan is accurate and complies with any conditions of approval and other applicable regulations, the Preliminary Development Plan shall be signed by the appropriate city officials and other applicable officials and agencies. (Ord. 2018-4312. Passed 3-19-18.)

1113.12 PHASING REQUIREMENTS.

A subdivision may be developed in phases provided that:

- (a) The Preliminary Development Plan shows the intended phases of development and the requirements of the Subdivision Regulations that shall be satisfied in each phase as approved as part of the Preliminary Development Plan.
- (b) The degree and extend of road, water supply, sewerage disposal, stormwater management, erosion and sediment control and other required improvements in the phase and previously approved phases is sufficient to serve or handle all development within the phases(s).
- (c) Phasing shall be ordered chronologically in the sequence in which construction is intended to occur in accordance with an approved Preliminary Development Plan. Phasing and sectioning shall be numbered and no further subcategorization shall be permitted beyond phase and section. Deviations from the phasing of an approved Preliminary Development Plan shall be at the discretion of the Planning and Zoning Commission. (Ord. 2018-4312. Passed 3-19-18.)

1113.13 PRELIMINARY DEVELOPMENT PLAN APPROVAL PERIOD.

- (a) The approval of a Preliminary Development Plan shall be valid for a period of two (2) years from the date of approval of the latest signature on the Preliminary Development Plan. The terms under which this approval was granted shall not be affected by changes in these regulations during the valid approval period. Changes in other applicable regulations may affect the terms under which this approval was granted.
- (b) The Subdivider or successor may request an extension of an approved Preliminary Development Plan by submitting an application for extension and the appropriate filing fee prior to the expiration date. The Planning and Zoning Commission may grant an extension of an approved Preliminary Development Plan for a period of two (2) years. This extension does not guarantee that the terms under which the original approval was granted shall not be affected by changes in these or other applicable regulations unless mutually agreed upon in writing by the Subdivider or successor and the Planning and Zoning Commission.
- (c) If an extension to an approved Preliminary Plan is granted by the Planning and Zoning Commission, the Subdivider shall submit a complete set of updated plans to the Planning and Zoning Department. The updated Preliminary Development Plan shall be legibly drawn in black ink on matte mylar material or other approved material of equal permanence. It shall be drawn at a scale no less than 100 feet to the inch on one (1) or more sheets 22 inches by 34 inches in size. If more than one (1) sheet is necessary, each sheet shall be numbered and the relation of one (1) sheet to another clearly indicated. The signatures and dates for the Subdivider or representative and a registered engineer or surveyor shall be on the updated Preliminary Development Plan at the time it is submitted. The Subdivider may submit additional copies of the updated Preliminary Development Plan for signatures if desired.
- (d) If an extension to an approved Preliminary Development Plan is not granted by the Planning and Zoning Commission, or if an approved Preliminary Development Plan expires, the Subdivider may reapply for Preliminary Development Plan approval pursuant to Section 1113.04. (Ord. 2018-4312. Passed 3-19-18.)

1113.14 AMENDMENT TO PRELIMINARY DEVELOPMENT PLAN.

- (a) No changes, modifications, or other revisions that alter the Preliminary Development Plan or conditions attached to an approved Preliminary Development Plan shall be made unless the proposed revisions are first resubmitted and approved by the Planning and Zoning Commission. Planning and Zoning Commission approval of an amended Preliminary Development Plan shall be valid for a period of two (2) years pursuant to the regulations in Section 1113.11.
- (b) In the event that such subdivision plan revisions are implemented without complying with this requirement, the revisions shall be considered null and void. Typographical errors that do not affect the Preliminary Development Plan shall be resubmitted and approved by the City Administrator or their designee. (Ord. 2018-4312. Passed 3-19-18.)

1113.15 CONSTRUCTION PLANS REQUIRED.

Construction Plans shall be submitted following approval or approval with conditions of a Preliminary Development Plan and prior to application for a Final Plan. (Ord. 2018-4312. Passed 3-19-18.)

1113.16 CONSTRUCTION PLANS APPLICATION.

Upon initial application for Construction Plans, the City Administrator or their designee shall make a determination of the completeness of the application as it complies with this section. The City Administrator or their designee shall have the right to reject the application for Construction Plans that is determined to be incomplete. An application shall be considered officially submitted and filed when the City Administrator or their designee finds that the following have been provided:

- (a) A Construction Plans application form provided by the Planning and Zoning Department and the proper filing fees.
- (b) The appropriate number of copies of the Construction Plans, as determined by the City Administrator or their designee, containing the information outlined in Section 1113.16. Reduced size copies may be required.
- (c) An electronic copy of all items submitted as a Portable Document Format (pdf) file or other acceptable format.
- (d) A cover letter detailing the contents and purpose of the Construction Plans submittal.

 (Ord. 2018-4312. Passed 3-19-18.)

1113.17 CONSTRUCTION PLANS CONTENTS.

Construction Plans for all improvements shall be prepared by a professional engineer, registered in the State of Ohio, and be in accordance with the construction and material specifications of the City. Approval by the City Administrator or their designee, and other regulatory agencies as necessary, shall be required prior to commencement of construction and before application for the Final Plan. Construction Plans shall be shown at a scale not less than 100 feet to the inch and shall be on one (1) or more sheets 22 inches by 34 inches in size and include the following:

- (a) Title sheet with vicinity map
- (b) Typical sections including section depths, widths and materials types.
- (c) Survey datum and basis of bearing with all horizontal and vertical control references and plan locations identified
- (d) General notes
- (e) Applicable standard drawings
- (f) Plan and Profile sheets including:
 - (1) Plans and centerline profiles of proposed streets including the following minimum requirements:
 - i. Stationing that is independent for each street with station equations shown as needed.
 - ii. Proposed grades
 - iii. Vertical and horizontal curves
 - iv. Pavement width
 - v. Right-of-way width
 - vi. Location and width of sidewalks and paths
 - vii. Location and size of all utilities
 - viii. Location of all streetlights
 - (2) Plans and profiles of proposed sanitary and storm sewers including the following minimum requirements:
 - i. Stationing and offsets as necessary
 - ii. Alignment, slope, size, material and length of all pipes
 - iii. All manhole bottom and top of casting elevations
 - iv. All utility crossings
 - v. Proposed backfill type

(3) Plans and profiles of proposed water distribution system including the following minimum requirements:

i. Stationing and offsets as necessary

- ii. Alignment, size and material of all pipes
- iii. Locations and sizes of all valves, fire hydrants, trees, service lines, tees, and other features as necessary.
- (4) Location and width of all proposed and existing right-of-way and easements.
- (g) Intersection details
- (h) ADA compliance of pedestrian facilities
- (i) Maintenance of traffic if applicable
- (j) Soil and erosion control plan
- (k) A fully detailed drainage and grading plan showing all existing and proposed storm sewers, manholes, catch basins, water courses, culverts, and underground structures within the tract and immediately adjacent thereto, with pipe sizes and grades, and waterway openings indicated thereon. The drainage plan shall show the method to be used for adequate routing of all storm water, including drainage outlets, storm water control devices, and other such data as may be required by the City Administrator or their designee.
- (l) The following items shall accompany and be submitted with engineering plans:
 - (1) Cover letter detailing the contents and purpose of the submittal
 - (2) Storm water calculations
 - (3) Sanitary calculations
- (m) Required statements and signatures to be affixed on the Construction Plans.
- (n) Any other information determined to be necessary by the City Administrator or their designee. (Ord. 2018-4312. Passed 3-19-18.)

1113.18 REVIEW AND APPROVAL OF CONSTRUCTION PLANS.

- (a) Upon receipt of a complete Construction Plans application, the City Administrator their designee shall review the application within a reasonable amount of time and in the order the application was received.
- (b) Upon completion of the review of the Construction Plans, the City Administrator or their designee will send the Subdivider a Review Letter listing the outstanding items that shall be addressed by the Subdivider.
- (c) All revisions to Construction Plans, as requested by the City Administrator or their designee, shall be accompanied by a letter from the engineer or surveyor indicating how each item from the Review Letter was addressed on the revised Construction Plans.
- (d) Subsequent review of Construction Plans shall follow the afore mentioned process until such time that all items are addressed to the satisfaction of the City Administrator or their designee. If in the event that items cannot be resolved administratively, those items shall be presented to the Planning and Zoning Commission for resolution. The Planning and Zoning Commission's determination regarding those items shall be final.
- (e) Upon determination by the City Administrator or their designee that the Construction Plans satisfy the requirements of the Pataskala Code and all other applicable regulations, notice of the decision of the City Administrator or their designee shall be communicated to the Subdivider in writing.

(f) Upon notification of approval, the Subdivider shall submit one (1) copy of the Construction Plans to the Planning and Zoning Department. The Construction Plans shall be legibly drawn in black ink on matte mylar material or other approved material of equal permanence. It shall be drawn at a scale no less than 100 feet to the inch on one (1) or more sheets 22 inches by 34 inches in size. If more than one (1) sheet is necessary, each sheet shall be numbered and the relation of one (1) sheet to another clearly indicated. The signatures and dates for the Subdivider or representative and a registered engineer or surveyor shall be on the Construction Plans at the time they are submitted. The Subdivider may submit additional copies of the Construction Plans for signatures if desired. The Construction Plans shall be signed by the appropriate city officials and other applicable officials and agencies. (Ord. 2018-4312. Passed 3-19-18.)

1113.19 CONSTRUCTION PLANS CONFERENCE.

A Construction Plans Conference may be required by the City Administrator or their designee, or requested by the Subdivider or their engineer. (Ord. 2018-4312. Passed 3-19-18.)

1113.20 CONSTRUCTION PLANS APPROVAL PERIOD.

- (a) The approval of the Construction Plans shall be valid for a period of three (3) years from the date of the latest signature on the approved Construction Plans. The terms under which this approval was granted shall not be affected by changes in these regulations. Changes in other applicable regulations may affect the terms under which this approval was granted.
- (b) The Subdivider or successor may request an extension of approved Construction Plans by submitting an application for extension and the appropriate filing fee prior to the expiration date. The City Administrator or their designee may grant an extension of approved Construction Plans for a period of three (3) years. This extension does not guarantee that the terms under which the original approval was granted shall not be affected by changes in these or other applicable regulations unless mutually agreed upon in writing by the Subdivider or successor and the City Administrator or their designee.
- (c) If an extension for approved Construction Plans is granted by the City Administrator or their designee, the Subdivider shall submit a complete set of updated plans shown at a scale not less than 100 feet to the inch and shall be on one (1) or more mylar sheets 22 inches by 34 inches in size to the Planning and Zoning Department for signatures. The three (3) year extension period shall begin from the date of approval of the latest signature on the approved Construction Plans extension.
- (d) If an extension for approved Construction Plans is not granted by the City Administrator or their designee, or if approved Construction Plans expire, the Subdivider may reapply for approval of Construction Plans pursuant to Section 1113.15. (Ord. 2018-4312. Passed 3-19-18.)

1113.21 FINAL DEVELOPMENT PLAN REQUIRED.

- (a) The purpose of a Final Development Plan is to ensure that all conditions, constructions plans, and other requirements have been satisfactorily addressed. The Final Development Plan shall conform to the approved or conditionally approved Preliminary Development Plan and Construction Plans or incorporate required changes as may be the case.
- (b) The Final Development Plan shall be submitted following approval or conditional approval of a Preliminary Development Plan and approval or conditional approval of Construction Plans. (Ord. 2018-4312. Passed 3-19-18.)

1113.22 FINAL DEVELOPMENT PLAN APPLICATION.

- (a) Upon initial Final Development Plan application, the City Administrator or their designee shall make a determination of the completeness of the application as it complies with this section. The City Administrator or their designee shall have the right to reject any Final Development Plan application that is determined to be incomplete. If the application is rejected as incomplete the City will make a good faith effort to advise the Subdivier the manner in which the application is incomplete. An application shall be considered officially submitted and filed when the City Administrator or their designee finds that the following have been provided:
 - (1) A Final Development Plan application form provided by the Planning and Zoning Department and the proper filing fees.
 - (2) The appropriate number of copies of the Final Development Plan, as determined by the City Administrator or their designee, containing the information outlined in Section 1113.23. Reduced size copies may be required.
 - (3) An electronic copy of the Final Plan as a Portable Document Format (pdf) file or other acceptable format.
 - (4) A cover letter detailing the contents and purpose of the Final Development Plan submittal
- (b) Within five (5) working days after the Final Development Plan application has been determined to be complete, the City Administrator or their designee shall distribute copies to other departments and agencies as the City Administrator or their designee deems necessary for a proper review, including but not limited to the Pataskala Utility Department, Pataskala City Engineer, Pataskala Police Department, Pataskala Public Service Department, West Licking Joint Fire District, Licking County Health Department and the South West Licking Community Water and Sewer District.
- (c) Complete Final Development Plan applications shall be scheduled to be heard by the Planning and Zoning Commission at the next Planning and Zoning Commission hearing as indicated on the adopted Planning and Zoning Commission hearings schedule. Special Planning and Zoning Commission hearings may be scheduled for extenuating circumstances as determined by the City Administrator or their designee.

 (Ord. 2018-4312. Passed 3-19-18.)

1113.23 FINAL DEVELOPMENT PLAN CONTENTS.

The Final Development Plan shall be shown at a scale not less than 100 feet to the inch and shall be on one (1) or more sheet 22 inches by 34 inches in size and include the following:

- (a) Proposed name, and phase if applicable, of the Major Subdivision. To avoid confusion, the name shall not duplicate or closely resemble the name of any other Major Subdivision or development within the City of Pataskala or Licking County.
- (b) Title sheet including the date the plan was prepared.
- (c) Location by Section, Range, and Township or other official surveys.
- (d) Names, addresses, and contact information of the property owner(s), the Subdivider, the Ohio Registered Engineer and/or the Ohio Registered Surveyor who prepared the plan and the appropriate seals and registration numbers of each,
- (e) Date of survey, scale of plan and north arrow.
- (f) Boundaries of the Major Subdivision, its acreage, and deed book and page number of lands within the proposed Major Subdivision.

- (g) Names of adjacent subdivisions, owners of adjoining parcels and the location of their boundary lines.
- (h) Locations, widths, and names of existing streets, rail road rights of way, easements, parks, permanent buildings, corporation and township boundaries, wooded areas, natural features, drainage, 100 year flood plain, existing permanent and temporary structures, and burial grounds and other areas of archeological significance within and adjacent to the Major Subdivision for a minimum distance of 200 feet.
- (i) Locations of all wetlands, ponds, watercourses and other naturally occurring water features on the property including a 25-foot buffer as measured from the edge of the water feature.
- (j) Location, names and widths and typical cross section and right of way width of proposed streets. Street names shall not duplicate or closely resemble the name of any other street, highway or road in the City of Pataskala or Licking County.
- (k) Location, widths and description of proposed easements. All lots shall have a minimum five (5) foot easement along the property line of the side and rear yards if determined to be necessary by the City Administrator or their designee.
- (1) Building setback lines with dimensions.
- (m) Location and dimensions of all proposed public and private utilities, water, wastewater, storm drain lines, detention and/or retention facilities showing their locations and connections with the existing system. All new utilities shall be located underground.
- (n) Layout, lot number, acreage and dimensions of each lot. When a lot is located on a curved street, or when side lot lines are not at 90 degree angles, the width at the building line shall be shown.
- (o) Parcels of land in acres to be reserved for public use, or to be reserved by covenant for residents of the subdivision.
- (p) The location and width of sidewalks and paths.
- (q) The location of all street lights. Street lights shall have a maximum spacing of 200 feet and be staggered on opposite sides of the street. At least one street light shall be located at an intersection.
- (r) A vicinity map at a scale of not less than 2,000 square feet to the inch. This map shall depict all existing subdivisions, roads, road rights of way, tract lines and the nearest existing intersections and thoroughfares. It shall also show the most advantageous connections between roads in the proposed Major Subdivision and those of the neighboring area.
- (s) A Tree Replacement Survey and Landscaping Plan pursuant to Chapter 1283.
- Statement of proposed use of all lots, giving types, number of dwelling units and any type of commercial, industrial or institutional activity.
- (u) Required statements and signatures to be affixed on the Final Development Plan. (Ord. 2018-4312. Passed 3-19-18.)

1113.24 FINAL DEVELOPMENT PLAN SUPPLEMENTARY INFORMATION.

The following information shall be supplied in addition to the requirements in Section 1113.23 as required by the City Administrator or their designee:

- (a) Proof of approval for any variances that were required as part of the Preliminary Development Plan.
- (b) Documentation indicating how any conditions of approval of the Preliminary Development Plan have been addressed as part of the Final Development Plan submittal.

(c) Other information that may be required by the City Administrator or their designee.
(Ord. 2018-4312. Passed 3-19-18.)

1113.25 FINAL DEVELOPMENT PLAN CONFERENCE.

A Final Development Plan Conference may be required by the City Administrator or their designee, or requested by the Subdivider, prior to the City of Pataskala Planning and Zoning Commission hearing. (Ord. 2018-4312. Passed 3-19-18.)

1113.26 FINAL DEVELOPMENT PLAN PUBLIC HEARING.

The Planning and Zoning Commission shall hold a public hearing prior to any action being taken on a Final Development Plan application. (Ord. 2018-4312. Passed 3-19-18.)

1113.27 FINAL DEVELOPMENT PLAN NOTIFICATION.

Written notice of the public hearing to be held for a Final Development Plan application shall be mailed to all adjoining property owners of record within 300 feet of any property line of the subject property by first class mail, and given in one (1) or more newspapers of general circulation in the City at least 10 days before the date of the public hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed Final Development Plan application. Notice of the public hearing shall be mailed by the Planning and Zoning Department by first class mail. Failure to deliver notice, as provided in this section, shall not invalidate any action taken by the Planning and Zoning Commission. (Ord. 2018-4312. Passed 3-19-18.)

1113.28 APPROVAL OF FINAL DEVELOPMENT PLAN.

- (a) The Planning and Zoning Commission shall determine whether a Final Development Plan is approved, approved with conditions or disapproved based upon confirmation that all conditions, construction plans, and other requirements have been satisfactorily addressed. Modifications to the approved Preliminary Development Plan may be considered by the Planning and Zoning Commission so long as they meet the intent of the approved Preliminary Development Plan or are reasonable accommodations based upon the Construction Plans. Notice of the decision of the Planning and Zoning Commission shall be communicated to the Subdivider in writing within five (5) days of the Planning and Zoning Commission hearing.
- (b) If a Final Development Plan is approved by the Planning and Zoning Commission, the Subdivider shall submit one (1) copy of the Final Development Plan, with any required revisions, to the Planning and Zoning Department. The Final Development Plan shall be legibly drawn in black ink on matte mylar material or other approved material of equal permanence. It shall be drawn at a scale no less than 100 feet to the inch on one (1) or more sheets 22 inches by 34 inches in size. If more than one (1) sheet is necessary, each sheet shall be numbered and the relation of one (1) sheet to another clearly indicated. The signatures and dates for the Subdivider or representative and a registered engineer or surveyor shall be on the Final Development Plan at the time it is submitted. The Subdivider may submit additional copies of the Final Development Plan for signatures if desired.
- (c) Once the City Administrator or their designee determines that the Final Development Plan is accurate and complies with any conditions of approval and other applicable regulations, the Final Development Plan shall be signed by the appropriate city officials and other applicable officials and agencies. (Ord. 2018-4312. Passed 3-19-18.)

1113.29 FINAL DEVELOPMENT PLAN APPROVAL PERIOD.

- (a) The approval of a Final Development Plan shall be valid for a period of two (2) years from the date of approval of the latest signature on the Final Development Plan. The terms under which this approval was granted shall not be affected by changes in these regulations. Changes in other applicable regulations may affect the terms under which this approval was granted.
- (b) The Subdivider or successor may request an extension of an approved Final Development Plan by submitting an application for extension and the appropriate filing fee prior to the expiration date. The Planning and Zoning Commission may grant an extension of an approved Final Development Plan for a period of two (2) years. This extension does not guarantee that the terms under which the original approval was granted shall not be affected by changes in these or other applicable regulations unless mutually agreed upon in writing by the Subdivider or successor and the Planning and Zoning Commission.
- (c) If an extension to an approved Final Development Plan is granted by the Planning and Zoning Commission, the Subdivider shall submit a complete set of updated plans shown at a scale not less than 100 feet to the inch and shall be on one (1) or more mylar sheets 22 inches by 34 inches in size to the Planning and Zoning Department for signatures. The two (2) year extension period shall begin from the date of approval of the latest signature on the approved Final Plan extension.
- (d) If an extension to an approved Final Development Plan is not granted by the Planning and Zoning Commission, or if an approved Final Development Plan expires, the Subdivider may reapply for Final Development Plan approval pursuant to Section 1113.21. (Ord. 2018-4312. Passed 3-19-18.)

1113.30 AMENDMENT TO FINAL DEVELOPMENT PLAN.

- (a) No changes, modifications, or other revisions that alter the Final Development Plan or conditions attached to an approved Final Development Plan shall be made unless the proposed revisions are first resubmitted and approved by the Planning and Zoning Commission. Planning and Zoning Commission approval of an amended Final Development Plan shall be valid for a period of two (2) years pursuant to the regulations in Section 1113.28.
- (b) In the event that such subdivision plan revisions are implemented without complying with this requirement, the revisions shall be considered null and void. Typographical errors that do not affect the Final Development Plan shall be resubmitted and approved by the City Administrator or their designee. (Ord. 2018-4312. Passed 3-19-18.)

1113.31 PRE-CONSTRUCTION CONFERENCE REQUIRED.

Prior to the commencement of construction, a Pre-Construction Conference shall be scheduled with the City Administrator or their designee. The following items shall be completed and submitted prior to scheduling the Pre-Construction Conference:

- (a) Final signed Construction Plans
- (b) Subdividers deposit for construction administration and inspection services as required pursuant to Section 1113.32.
- (c) Developers agreement
- (d) All applicable permitting, including but not limited to NPDES, OEPA, ACOE, Fish and Wildlife and ODNR.
- (e) Anticipated construction schedule.

(f) Emergency contact and sub-contractors list.

Other information that may be required by the City Administrator or their designee. (Ord. 2018-4312. Passed 3-19-18.)

1113.32 CONSTRUCTION ADMINISTRATION AND INSPECTION.

- (a) Prior to commencement of any work covered in the Construction Plans, after approval thereof, arrangements shall be made by the Subdivider to provide for administration and inspection services by the City Administrator or their designee.
- (b) The Subdivider shall deposit funds with the City in an amount sufficient to cover the costs of construction administration and inspection services. The value of said deposit shall be based upon a percentage of the estimated construction cost of the public improvements.
- (c) In the event that the deposited funds are exhausted, the Subdiver shall provide an additional deposit in an amount to be determined by the City Administrator or their designee prior to continuation of construction activities. (Ord. 2018-4312. Passed 3-19-18.)

1113.33 CONSTRUCTION OF PUBLIC IMPROVEMENTS.

- (a) Erosion and sediment control measures shall be in place prior to commencement of earthmoving operations pursuant to the approved Construction Plans, Chapter 1119 of this Code and all other applicable state and federal regulations. An inspector assigned by the City Administrator or their designee shall be present during the construction of all public improvements to be accepted. Public improvements constructed in the absence of an inspector assigned by the City Administrator or their designee shall not be accepted.
- (b) All construction activities shall be performed in accordance with the approved plans and in a safe manner so as not to hinder, obstruct, limit, affect or otherwise create a nuisance to the City and public at large. This shall include, but not be limited to, maintenance of traffic, obstructions to travel, maintenance of erosion and sediment control devices and minimization of off-site impacts including noise, vibration, odor, air pollution, glare, and water pollution. The City Administrator or their designee shall determine compliance with the intent of the afore mentioned requirements. Whomever violates any provisions of this Section or fails to comply with any of its requirements shall be subject to punishment under Section 1123.99.
- (c) At the discretion of the City Administrator or their designee, testing of public improvements or facets thereof shall be completed by the Subdivider. Any public improvements or facets thereof that fail to meet standard testing parameters shall not be accepted.
- (d) If any phase of an approved subdivision will use an existing road for access, a surety may be required to cover any damage to public infrastructure. The City Administrator or their designee shall make an evaluation of the public infrastructure prior to the start of any construction activities. In addition, an evaluation shall be made at the completion of each phase to determine damage, if any, to the public infrastructure. The City Administrator or their designee shall determine the value of the surety, if required. (Ord. 2018-4312. Passed 3-19-18.)

1113.34 FINAL INSPECTION.

Upon completion of all public improvements, the Subdivider shall request, in writing, a final inspection to be performed by the City Administrator or their designee. In the case that any public improvements do not pass a final inspection, the Subdivider shall be so notified in writing, and requested to make corrections to the work as necessary. (Ord. 2018-4312. Passed 3-19-18.)

1113.35 PROCEDURE FOR ACCEPTANCE.

- (a) After completion, final inspection and approval of all public improvements, the Subdivider shall provide a maintenance bond for the public improvements. The duration and value of the maintenance bond shall be determined by the City Administrator or their designee.
- (b) Upon receipt of the maintenance bond, the City Administrator or their designee shall provide a certificate of substantial completion to the Subdivider. The certificate of substantial completion shall include a list of any deficient items to be corrected. The issuance of a certificate of substantial completion establishes the commencement and duration of the warranty period.
- (c) Once the certificate of substantial completion, signed by the Subdivider, is returned, and all conditions for acceptance pursuant to Section 1113.36 have been satisfied, the City Administrator or their designee shall provide documentation, in the form of a Resolution, to City Council for acceptance of the public improvements.
- (d) City Council shall determine the acceptability of the public improvements for public maintenance and operation in accordance with the approved Construction Plans and applicable specifications. (Ord. 2018-4312. Passed 3-19-18.)

1113.36 CONDITIONS FOR ACCEPTANCE.

Prior to the acceptance of the public improvements, the Subdivider shall provide to the City Administrator or their designee, the following:

- (a) Maintenance bond
- (b) Signed certificate of substantial completion
- (c) As built information in all of the following formats:
 - (1) A copy of the approved Construction Plans with as-built revisions legibly drawn in black ink on matter mylar material or other approved material of equal permanence. It shall be drawn at a scale no less than 100 feet to the inch on one (1) or more sheets 22 inches by 34 inches in size. If more than one (1) sheet is necessary, each sheet shall be numbered and the relation of one (1) sheet to another clearly indicated.
 - (2) An electronic copy of the approved Constructions Plans with as-built revisions as a Portable Document Format (pdf) file or other acceptable format.
 - (3) A copy of the Computer Animated Drafting (CAD) files in State Plane Coordinates in the appropriate format as determined by the City Administrator or their designee.
 - (4) The Global Positioning System (GPS) coordinates for public improvements to include, but not limited to, all valves, fire hydrants, manholes and catch basins in tabular (spreadsheet) format.

 (Ord. 2018-4312. Passed 3-19-18.)

1113.37 SUBMISSION OF FINAL PLAT.

Prior to the submittal of the Final Plat, the Subdivider shall install all required improvements that have been accepted by the City of Patasksla by Resolution. (Ord. 2018-4312. Passed 3-19-18.)

1113.38 FINAL PLAT FORM.

- (a) The Final Plat shall be legibly drawn in black ink on matte mylar material or other approved material of equal permanence. It shall be drawn at a scale no less than 100 feet to the inch on one (1) or more sheets 18 inches by 24 inches in size. If more than one (1) sheet is necessary, each sheet shall be numbered and the relation of one sheet to another is clearly indicated.
- (b) The Final Plat may be submitted in phases or sections, or in its entirety, as long as the Final Plat is the same as the approved Final Development Plan, or Final Development Plan with conditions, consistent with the approved Construction Plans, and compliant with all other applicable regulations. (Ord. 2018-4312. Passed 3-19-18.)

1113.39 FINAL PLAT CONTENTS.

The Final Plat shall contain the following information for the particular phase or section that is being submitted for review and approval. The City Administrator or their designee may require additional information as necessary.

(a) Name of the subdivision, located by section, range, township, or by other survey

number, date, north arrow, and acreage.

(b) Name and address of the Subdivider and the professional registered surveyor who

prepared the Final Plat, and appropriate numbers and seals.

(c) Final Plat boundaries based on accurate traverse with angular and linear dimensions, both linear and angular shall be determined by an accurate control survey in the field, which must balance, and close within the limit of 1:10,000.

(d) Bearings and distances to the nearest established street lines or other recognized

permanent monuments.

(e) The parcel identification number of the original tract(s) and the owners name(s) and

parcel identification number(s) of all adjacent parcels.

- (f) Radii, internal angles, points of curvature, tangent bearings, lengths or arcs, all easements and right-of-way provided for public services or utilities, building setback lines with dimensions, right-of-way width, and names of all streets within and adjoining the Final Plat.
- (g) All lot numbers and lines with accurate dimensions in feet and hundredths, and acreage.
- (h) Accurate outlines of areas to be dedicated or reserved for public use, or any area to be reserved for common use of all property owners. The use and accurate boundary locations shall be shown for each parcel of land to be dedicated.

(i) The locations and descriptions of all monuments and pins.

- (j) When lots are located on a curve or when lot lines are at angles other than 90 degrees, the width at the building line shall be shown. If the building line is curved, the arc length shall be shown.
- (k) Locations of all wetlands, ponds, watercourses and other naturally occurring water features on the property including a 25 foot buffer as measured from the edge of the water feature.

- (I) Any part of the subdivision located within the 100-year flood plain as indicated on the Flood Insurance Rate Map (FIRM), or as determined by other appropriate persons.
- (m) Required statements and signatures to be affixed on the Final Plat. (Ord. 2018-4312. Passed 3-19-18.)

1113.40 FINAL PLAT APPROVAL.

The City Administrator or their designee shall review the Final Plat and return any comments to the Subdivider for changes as necessary. Once the City Administrator or their designee determines that the Final Plat is accurate and complies with the requirements of these or any other applicable regulations, the Final Plat will be signed by the appropriate City Officials and other officials and agencies. The Subdivder when the be notified that the Final Plat is complete and ready for recording.

(Ord. 2018-4312. Passed 3-19-18.)

1113.41 TRANSMITTAL OF COPIES OF FINAL PLAT.

- (a) When the Final Plat has been approved by the appropriate City Officials and other officials and agencies, the original mylar of the Final Plat shall be returned to the Subdivider for filing with Licking County.
- (b) The Subdivider shall return the recorded mylar copy of the Final Plat to the City Administrator or their designee within 30 days of the date of its recording. Final Plats shall be filed no later than 30 days following the date of the final official signature on the original mylar. Failure to record the Final Plat within 30 days following the date of the final official signature on the original mylar shall render the Final Plat null and void. (Ord. 2018-4312. Passed 3-19-18.)

1113.42 REPLAT REQUIRED.

Alterations to existing lot lines or other conditions to all or part of an existing platted subdivision shall require a Replat. (Ord. 2018-4312. Passed 3-19-18.)

1113.43 REPLAT APPLICATION.

- (a) Upon initial Replat application, the City Administrator or their designee shall make a determination of the completeness of the application as it complies with this section. The City Administrator or their designee shall have the right to reject any Replat application that is determined to be incomplete. If an application is rejected, the City will make a good faith effort to advise the Subdivider the manner in which the application is incomplete. An application shall be considered officially submitted and filed when the City Administrator or their designee finds that the following have been provided:
 - (1) A Replat application form provided by the Planning and Zoning Department and the proper filing fees.
 - (2) The appropriate number of copies of the Replat as determined by the City Administrator or their designee. Reduced size copies may be required.
 - (3) An electronic copy of the Replat as a Portable Document Format (pdf) file or other acceptable format.
 - (4) A cover letter detailing the contents and purpose of the Replat submittal.
 - (5) A copy of the original Final Plat.

- (b) Within five (5) working days after the Replat application has been determined to be complete, the City Administrator or their designee shall distribute copies to other departments and agencies as the City Administrator or their designee deems necessary for a proper review, including but not limited to the Pataskala Utility Department, Pataskala City Engineer, Pataskala Police Department, Pataskala Public Service Department, West Licking Joint Fire District, Licking County Health Department and the South West Licking Community Water and Sewer District.
- (c) Complete Replat applications shall be scheduled to be heard by the Planning and Zoning Commission at the next Planning and Zoning Commission hearing as indicated on the adopted Planning and Zoning Commission hearing schedule. Special Planning and Zoning Commission hearings may be scheduled for extenuating circumstances as determined by the City Administrator or their designee. (Ord. 2018-4312. Passed 3-19-18.)

1113.44 REPLAT CONTENTS.

The Replat shall be shown at a scale not less than 100 feet to the inch and shall be on one (1) or more sheets 18 inches by 24 inches in size. If more than one (1) sheet is necessary, each sheet shall be numbered and the relation of one sheet to another is clearly indicated. The Replat shall contain or accompany the following information for the lots that are being submitted for review and approval. The City Administrator or their designee may require additional information as necessary.

- (a) A copy of the Replat complete with all information as required in Section 1113.39.
- (b) If the lots being replatted have existing structures, then a separate dimensionally accurate sketch prepared by a registered surveyor illustrating the revised lot lines, together with the outlines of such structures shall be submitted.
- (c) New lot numbers shall be assigned to all new or modified lots. This number shall consist of the lowest original lot number contained within the lot lines of the proposed lots and hyphenated with the letter "A", or next alphabetical letter needed to make the proposed lot number unique within the subdivision.
- (d) The Replat shall meet all applicable zoning and subdivision regulations.
- (e) All existing easements and reserves shall be maintained on the Replat. The Planning and Zoning Commission may waive this requirement if it is determined that the existing easement would not serve a purpose as part of the replatted lots.
- (f) Where no easements exist, a minimum five (5) foot easement along the property line of the side and rear yards if determined to be necessary by the City Administrator or their designee. (Ord. 2018-4312. Passed 3-19-18.)

1113.45 REPLAT CONFERENCE.

A Replat Conference may be required by the City Administrator or their designee, or requested by the Subdivider, prior to the City of Pataskala Planning and Zoning Commission hearing. (Ord. 2018-4312. Passed 3-19-18.)

1113.46 REPLAT PUBLIC HEARING.

The Planning and Zoning Commission shall hold a public hearing prior to any action being taken on a Replat application. (Ord. 2018-4312. Passed 3-19-18.)

1113.47 REPLAT NOTICE TO PROPERTY OWNERS.

Written notice of the public hearing to be held for a Replat application shall be mailed to all adjoining property owners of record within 300 feet of any property line of the subject property by first class mail, and given in one (1) or more newspapers of general circulation in the City at least 10 days before the date of the public hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed Replat application. Notice of the public hearing shall be mailed by the Planning and Zoning Department by first class mail. Failure to deliver notice, as provided in this section, shall not invalidate any action taken by the Planning and Zoning Commission. (Ord. 2018-4312. Passed 3-19-18.)

1113.48 APPROVAL OF REPLAT.

- (a) The Planning and Zoning Commission shall determine whether a Replat is approved, approved with conditions or disapproved based upon determination of whether all requirements have been satisfactorily addressed. Modifications to the approved Final Development Plan and/or Final Plat may be considered by the Planning and Zoning Commission so long as they meet the intent of the approved Final Development Plan and/or Final Plat or are reasonable accommodations based upon the proposal. Notice of the decision of the Planning and Zoning Commission shall be communicated to the Subdivider in writing within five (5) days of the Planning and Zoning Commission hearing.
- (b) If a Replat is approved by the Planning and Zoning Commission, the Subdivider shall submit one (1) copy of the Replat, with any required revisions, to the Planning and Zoning Department. The Replat shall be legibly drawn in black ink on matte mylar material or other approved material of equal permanence. It shall be drawn at a scale no less than 100 feet to the inch on one (1) or more sheets 18 inches by 24 inches in size. If more than one (1) sheet is necessary, each sheet shall be numbered and the relation of one (1) sheet to another clearly indicated. The signatures and dates for the Subdivider or representative and a registered engineer or surveyor shall be on the Replat at the time it is submitted. The Subdivider may submit additional copies of the Replat for signatures if desired.
- (c) Once the City Administrator or their designee determines that the Replat is accurate and complies with any conditions of approval and other applicable regulations, the Replat shall be signed by the appropriate city officials and other applicable officials and agencies. The Subdivider will be notified that the Replat is complete and ready for recording. (Ord. 2018-4312. Passed 3-19-18.)

1113.49 TRANSMITTAL OF COPIES OF REPLAT.

When the Replat has been approved by the appropriate City Officials and other officials and agencies, the original mylar of the Replat shall be returned to the Subdivider for filing with Licking County.

The Subdivider shall return the recorded mylar copy of the Replat to the City Administrator or their designee within 30 days of the date of its recording. Replats shall be filed no later than 30 days following the date of the final official signature on the original mylar. Failure to record the Replat within 30 days following the date of the final official signature on the original mylar shall render the Replat null and void.

(Ord. 2018-4312. Passed 3-19-18.)

1113.50	KEQUIKED	STATEN	MENTS.					
The follo	wing statement	shall be	affixed	on a Final	Plat or 1	Replat as a	required 1	by th

The following statement shall be affixed on a Final Plat or Replat as required by these regulations:
Situated in Section, Township, Range, Licking County, Pataskala, Ohio, containing acres and being the same tract as conveyed to and described in the deed recorded in Deed Book, Licking County, Ohio.
The undersigned hereby certify that the attached plat correctly represents their, a subdivision of lots to, inclusive, do hereby accept this plat of same and dedicate to public (private) use as such all or parts of the roads, boulevards, cul-de-sacs, parks, planting strips, etc., shown herein and not heretofore dedicated.
The undersigned further agrees that any use of improvements made on this land shall be in conformity with all existing valid zoning, platting, health, or other lawful rules and regulations including the applicable off-street parking and loading requirements of the City of Pataskala, Ohio, for the benefit of himself and all other and subsequent owners or assigns taking title from, under, or through the undersigned. In Witness thereof day of 20 Signed
We do hereby certify that we have surveyed the premises and prepared the attached plat and said plat is correct. By STATE OF OHIO CITY OF PATASKALA, OHIO Before me a Notary Public in and for said City personally came who acknowledged the signing of the foregoing instrument to be their voluntary act and deed for the purposes therein expressed. In witness whereof I have hereunto set my hand and affixed my official seal this day of
, 20 By
(OIU. 2010-4512. Fasseu 5-19-10.)

CHAPTER 1115 Minor Subdivisions

1115.01	Minor subdivision criteria.	1115.07	Exempted lot split
1115.02	Lot split.		application.
	Lot split application.	1115.08	Approval of exempted
1115.04	Approval of lot split.		lot split.
1115.05	Lot split approval period.	1115.09	Exempted lot split approval
1115.06	Exempted lot split.		period.

CROSS REFERENCES

Plat and contents - see Ohio R.C. 711.01 et seq. Plat acknowledgment and recording - see Ohio R.C. 711.06 Plat approval - see Ohio R.C. 711.09

1115.01 MINOR SUBDIVISION CRITERIA.

A Minor Subdivision is the creation of less than six (6) lots, including the remainder, from the original parcel and/or does not involve the creation or extension of any roads or easements of access. Minor Subdivisions may be approved by the City Administrator or their designee without a plat so long as they comply with the requirements of a Lot Split or an Exempted Lot Split. (Ord. 2018-4312. Passed 3-19-18.)

1115.02 LOT SPLIT.

A Lot Split may be approved by the City Administrator or their designee if the proposed Lot Split complies with all of the following requirements:

- (a) The proposed Lot Split is located along an existing dedicated public right of way and does not involve the opening, widening, or extension of any street or road.
- (b) Less than six (6) lots, including the remainder, are created from the original property.
- (c) The proposed Lot Split complies with all applicable Subdivision and Zoning Regulations. (Ord. 2018-4312. Passed 3-19-18.)

1115.03 LOT SPLIT APPLICATION.

Upon initial Lot Split application, the City Administrator or their designee shall make a determination of the completeness of the application as it complies with this section. The City Administrator or their designee shall have the right to reject a Lot Split Application that is determined to be incomplete. An application shall be considered officially submitted and filed when the City Administrator or their designee finds that the following have been provided:

- (a) A Lot Split application for provided by the Planning and Zoning Department and the proper filing fees.
- (b) Two (2) copies of a survey prepared by a surveyor registered in the State of Ohio containing the following:
 - (1) The establishment of property corners by iron pins, corner posts, or other acceptable monuments.
 - (2) The original adjacent properties and the parcel to be conveyed including dimensions, property size, and ownership.
 - (3) The location of all buildings on the properties.
- (c) Two (2) copies of the legal description of the property to be conveyed.
- (d) Other information that may be required by the City Administrator or their designee.

(Ord. 2018-4312. Passed 3-19-18.)

1115.04 APPROVAL OF LOT SPLIT.

When the City Administrator or their designee is satisfied that a Lot Split application meets the requirements of Section 1115.02, the Lot Split application shall be approved. The City Administrator or their designee shall return one (1) copy of the approved Lot Split application to the Subdivider for recording purposes. (Ord. 2018-4312. Passed 3-19-18.)

1115.05 LOT SPLIT APPROVAL PERIOD.

The approval of a Lot Split shall be valid for a period of one (1) year from the date of approval. The terms under which this approval was granted shall not be affected by changes in these regulations during the valid approval period. Failure to record the Lot Split within the valid approval period shall render the Lot Split application null and void. (Ord. 2018-4312. Passed 3-19-18.)

1115.06 EXEMPTED LOT SPLIT.

An Exempted Lot Split is the division and subsequent conveyance of property between adjoining property owners or the combination of adjacent properties where such conveyance shall not create an additional building site and/or does not involve the opening, widening, or extension of any street or road. (Ord. 2018-4312. Passed 3-19-18.)

1115.07 EXEMPTED LOT SPLIT APPLICATION.

Upon initial Exempted Lot Split application, the City Administrator or their designee shall make a determination of the completeness of the application as it complies with this section. The City Administrator or their designee shall have the right to reject any Exempted Lot Split application that is determined to be incomplete. An application shall be considered officially submitted and filed when the City Administrator or their designee finds that the following have been provided:

- (a) An Exempted Lot Split application form provided by the Planning and Zoning Department and the proper filing fees.
- (b) Two (2) copies of a survey prepared by a surveyor registered in the State of Ohio containing the following
 - (1) The establishment of property corners by iron pins, corner posts, or other acceptable monuments.

(2) The original adjacent properties and the parcel to be conveyed including dimensions, property size, and ownership.

(3) The location of all buildings on the properties.

- (c) Two (2) copies of the legal description of the properties created by the Lot Split including the remainder.
- (d) Other information that may be required by the City Administrator or their designee.
 (Ord. 2018-4312. Passed 3-19-18.)

1115.08 APPROVAL OF EXEMPTED LOT SPLIT.

When the City Administrator or their designee is satisfied that an Exempted Lot Split application meets the requirements of Section 1115.06 and Section 1115.07, the Exempted Lot Split application shall be approved. The City Administrator or their designee shall return one (1) copy of the approved Exempted Lot Split application to the Subdivider for recording purposes. (Ord. 2018-4312. Passed 3-19-18.)

1115.09 EXEMPTED LOT SPLIT APPROVAL PERIOD.

The approval of an Exempted Lot Split shall be valid for a period of one (1) year from the date of approval. The terms under which this approval was granted shall not be affected by changes in these regulations during the valid approval period. Failure to record the Exempted Lot Split within the valid approval period shall render the Exempted Lot Split application null and void.

(Ord. 2018-4312. Passed 3-19-18.)

CHAPTER 1117 Design Standards

1117.01	General statement.	1117.12	Streets for commercial
1117.02	Conformity to development		subdivisions.
	plans and zoning.	1117.13	Streets for industrial
1117.03	Suitability of land.		subdivisions.
1117.04	Street design.	1117.14	Large private parking lots.
1117.05	Street design standards for	1117.15	Public sidewalks.
	cul-de-sacs and all local	1117.16	Blocks.
	streets.	1117.17	Lots.
1117.06	Collector street design	1117.18	Easements.
	standards.	1117.19	Flood areas and storm
1117.07	Horizontal alignment.		drainage.
1117.08	Vertical alignment.	1117.20	Public sites, open space and
1117.09	Intersection design standards.		natural features.
1117.10	Special street types.	1117.30	Access Management
1117.11	Boulevards.		_

CROSS REFERENCES Sewer design - see S.U. & P.S. Ch. 921 Flood damage prevention - see BLDG. Ch. 1325

1117.01 GENERAL STATEMENT.

The regulations in Sections 1117.02 to 1117.20 inclusive, shall control the manner in which streets, lots, and other elements of a subdivision are arranged on the land. These design controls shall help insure convenient and safe streets, creation of usable lots, provision of space for public utilities, and reservation of land for recreational uses. The planning of attractive and functional neighborhoods shall be promoted, minimizing the undesirable features of unplanned, haphazard growth.

The Planning and Zoning Commission has the responsibility for reviewing the design of each future subdivision early in its design and development. The Planning and Zoning Commission shall insure that all the requirements of Sections 1117.02 to 1117.20, inclusive, are met.

1117.02 CONFORMITY TO DEVELOPMENT PLANS AND ZONING.

The arrangement, character, width, and location of all arterial and collector thoroughfares or extensions thereof shall conform with the City's Major Thoroughfare Plan. Thoroughfares not contained in the aforementioned plan shall conform to the recommendation of the Planning and Zoning Commission based upon the design standards set forth in Sections 1117.02 to 1117.13, inclusive. In addition, no final plat of land within the area in which an existing Zoning Ordinance is in effect shall be approved unless it conforms with such Ordinance.

1117.03 SUITABILITY OF LAND.

If the Planning and Zoning Commission finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, topography, inadequate water supply, schools, transportation facilities, and other such conditions which may endanger health, life, or property, and if from investigations conducted by the public agencies concerned, it is determined that in the best interest of the public the land should not be developed for the purpose proposed, the Planning and Zoning Commission shall not approve the land for subdivision unless adequate methods are advanced by the Subdivider for solving the problems that will be created by the development of the land.

1117.04 STREET DESIGN.

The arrangement, character, extent, width, grade construction, and location of all streets shall conform to the Major Thoroughfare Plan of the City of Pataskala, or subsequent amendments thereto, and shall be considered in their relation to existing and planned streets, topographical conditions, and public convenience and safety; and in their appropriate relation to the proposed uses of the land to be served by such streets.

The street pattern shall discourage through traffic in the interior of a subdivision. The Subdivider shall provide within the boundaries of the subdivision plan, the necessary right-of-way for the widening, continuance, or alignment of such streets in conformity with the Major Thoroughfare Plan.

1117.05 STREET DESIGN STANDARDS FOR CUL-DE-SACS AND ALL LOCAL STREETS.

The design and improvement standards contained in the following table are suggested minimums for cul-de-sacs and loop type local streets in residential subdivisions. All such streets shall be designed and constructed in accordance with standards as specified in "Table 1" and any other more recent standards approved by the Planning and Zoning Commission.

1117.06 COLLECTOR STREET DESIGN STANDARDS.

The design and improvement standards contained in the following table are suggested minimums for all collector streets. All such streets shall be designed and constructed in accordance with the standards as specified in Table 2.

1117.07 HORIZONTAL ALIGNMENT.

When there is an angle of deflection of more than ten (10) degrees between two (2) centerline tangent sections of a street, a curve of adequate radius shall connect them. (See Sections 1117.05 to 1117.07, inclusive). Between reverse curves, a minimum tangent of 100 feet shall be introduced.

1117.08 VERTICAL ALIGNMENT.

- (a) All changes of grade shall be connected by vertical curves of a minimum length in feet equal to 20 times the algebraic difference in the rate of grade for arterials and industrial streets; for collector and local streets, 15 times.
- (b) Minimum vertical visibility shall conform to the Ohio Department of Highway's regulations in effect on the date of the approval of the preliminary plat.
- (c) No street grade shall be less than 0.6 percent and in no case shall a street grade be more than 3 percent within 100 feet of an intersection.

1117.09 INTERSECTION DESIGN STANDARDS.

- (a) The design and improvement standards for intersections are suggested minimums for all street intersections in subdivisions. All such intersections shall be designed and constructed in accordance with the standards as specified in Table 3.
- (b) Multiple intersections involving junctions of more than two (2) streets shall be avoided.
- (c) Four-way intersections of local streets should be avoided and three-way or T-intersections should be encouraged wherever possible.

1117.10 SPECIAL STREET TYPES.

The following requirements shall apply to special street types:

(a) Permanent dead-end streets shall not be permitted. Temporary dead-end streets shall be permitted only as part of a continuing street plan, and only if a temporary turn-around satisfactory to the Planning and Zoning Commission in design, is provided, and provisions for maintenance, and removal are stipulated and approved. Temporary dead-end streets longer than 200 feet shall not be permitted.

(b) Dedication of new half-streets shall not be permitted. Where a dedicated or platted half-street exists adjacent to the tract being subdivided, the other half shall be platted and dedicated and if required, improved as part of the new subdivision.

(c) Where a subdivision adjoins an arterial street, a marginal access street shall be designed, if the subdivision design is such that residential lots would require direct vehicular access onto the arterial highway. Points of access to the arterial street shall be spaced at a minimum of 1,320 feet. A planting strip having a minimum width of 20 feet shall be provided between the pavement of the arterial street and the pavement of the marginal access street. The minimum width of the marginal access right-of-way shall be 50 feet.

(d) Alleys shall not be approved in residential subdivisions, except where justified by extreme conditions. Alleys may be required in commercial and industrial districts if other provisions cannot be made for adequate service access. The minimum widths for alleys shall be 20 feet for the right-of-way and 18 feet for the pavement

width.

TABLE 1

STREET DESIGN STANDARDS FOR CUL-DE-SACS AND ALL TYPES OF LOCAL STREETS

Right-of-Way (ft.)	50 *
Pavement Width (ft.)	28 **
Sidewalk Width (ft.)	4
Minimum Stopping Sight Distance (ft.)	200
Maximum Grade (percent)	4 %***
Maximum Cul-de-Sac Length (ft .)	500
Minimum Cul-de-Sac Radius (ROW)	50
Minimum Cul-de-Sac Radius (Pavement)	40
Minimum Center Line Radius (FF)	150

^{*} A utility easement ten (10) feet in width may be required along each side of the street right-of-way for these streets.

^{**} Pavement width from back of curb to back of curb.

^{***} Unless otherwise approved by the City Engineer.

TABLE 2

COLLECTOR STREET DESIGN STANDARDS

Right-of-Way (ft.)	60
Pavement Width (ft.)	33/36 *
Sidewalk Width (ft.)	4
Minimum Stopping Sight Distance (ft.)	250
Maximum Grade (percent)	4 %**
Minimum Spacing When Intersection With an Arterial (ft.)	1320
Minimum Centerline Radius	350

^{*} Pavement width from back of curb to back of curb. A 33 foot pavement width shall be required where parking is to be provided on one side of the street and a 36 foot pavement shall be required where parking is to be provided on both sides of the street.

TABLE 3

INTERSECTION DESIGN STANDARDS

Maximum Approach Speed (MPH)	25		
Clear Sight Distance (ft.) Length Along Each Approach Leg	90		
Vertical Alignment With Intersection	2 %		
Minimum Angle of Intersection (Degrees)	75 *		
* 90 Degrees Preferred			

^{**} Unless otherwise approved by the City Engineer.

Streets shall remain in the angle of intersection for at least 100 feet beyond the point of intersection.

Minimum Curb Radius (ft.)

1. Local-Local	20 - All Cases
2. Local-Collector	25 - All Cases
3. Collector-Collector	30-All Cases
4. Collector, Marginal Access-Arterial	35 - All Cases

Minimum Centerline, Offset of Adjacent Intersections (ft.)

William Centerine, Offset of Adjacent	intersections (it.)
1. Local-Local	150-All Cases
2. Local-Collector	200 - All Cases
3. Collector-Collector	300 - All Cases
4. Collector, Marginal Access-Arterial	1320 - All Cases

1117.11 BOULEVARDS.

The Planning and Zoning Commission may reserve the right to require the dedication of a landscaped boulevard median in place of additional right-of-way paving which would otherwise be used for on-street parking purposes. Whenever the provision of a boulevard is required, the following dimensions shall apply:

- (a) Two traffic lanes with a minimum width of 14 feet each. (No on-street parking shall be permitted.)
- (b) A 14-foot wide landscaped median.
- (c) Two 5-foot wide sidewalks.
- (d) Two landscaped buffers.
 - (1) Four feet apiece for 60-foot-wide rights-of-way; and
 - (2) Seven feet apiece for 66-foot-wide rights-of-way.
 - In instances where a boulevard is approved, all required street tree plantings shall be provided through the use of ten-foot-wide easements immediately adjacent and parallel to the edge of the public right-of-way.

1117.12 STREETS FOR COMMERCIAL SUBDIVISIONS.

Streets serving business developments and accessory parking areas shall be planned to connect with arterial streets so as not to generate traffic on local streets. The intersections of driveways from parking areas with arterial or collector streets shall be located so as to cause the least possible interference with traffic movement on the streets, and shall be located not less than 100 feet from the intersection of an arterial or collector street with any other street, and shall be spaced not less than 200 feet from each other. The Planning and Zoning Commission may require marginal access streets to provide maximum safety and convenience.

1117.13 STREETS FOR INDUSTRIAL SUBDIVISIONS.

Collector streets for industrial subdivisions shall be planned to serve industrial areas exclusively and shall connect with arterial streets so that no industrial traffic will be directed into any residential streets. The intersections of service streets from parking areas with arterial or collector streets shall not be less than 100 feet from the intersection of the arterial or collector street with any other street. Streets shall be planned to be extended to the boundaries of any adjoining land planned for industry, except for severe physical conditions or if the Planning and Zoning Commission finds such extension is not in accordance with the approved plan of the areas.

1117.14 LARGE PRIVATE PARKING LOTS.

Where a parking lot is proposed to consist of fifty or more spaces, it shall include, as a minimum, one decorative or ornamental tree for every ten parking spaces to be provided. These plantings may be placed either within the required setback area or the interior parking lot area, or both.

Whenever 100 or more parking spaces will be provided, at least one-half of the required number of trees shall be placed within the interior of the parking lot. Regardless of parking lot size, the number of trees required may be planted in clusters, or may be planted in evenly spaced or staggered rows. These tree plantings must conform with Section 1121.16.

1117.15 PUBLIC SIDEWALKS.

All public sidewalks shall conform with the following requirements:

(a) Public sidewalks shall be required on both sides of the street in all residential subdivisions where the lot width is 100 feet or less.

(b) Public sidewalks may be required by the City Administrator or their designee where the predominant lot width is greater than 100 feet (refer to 1117.15(f) for

exceptions).

- (c) Public sidewalks and any associated improvements shall be required along the road frontage of all arterial and collector streets. These sidewalks shall be in the form of either concrete sidewalks or asphalt paths, as required by the City Administrator or their designee, or as designated in the Comprehensive Plan and constructed to the current specifications of the City of Pataskala.
- (d) Public sidewalks and any associated improvements shall be required on one or both sides of a street where commercial lots exist or are proposed for platting.

(e) Public sidewalks may, at the discretion of the City Administrator or their designee,

be required for industrial lots.

- (f) The City Administrator or their designee shall reserve the right to waive the requirement for installation of public sidewalks and associated improvements where the improvement would not be compatible with a surrounding or adjacent development. The developer shall contribute to a fund established by Council for the purpose of development payment in-lieu if the requirement for the public sidewalk and associated improvements is waived.
- (g) Public sidewalks should be placed at least five (5) feet from back of curb and shall be no closer than one (1) foot inside the right-of-way.
- (h) Public sidewalks and any associated improvements shall be constructed to the current specifications of the City of Pataskala.
- (i) Public sidewalks shall conform with the existing alignment in all areas when abutting to an existing sidewalk.
- (j) The installation location requirement may vary in special conditions such as when crossing bridges, etc. upon approval of the City Administrator or their designee. (Ord. 2017-4282. Passed 5-1-17.)

1117.16 BLOCKS.

The following regulations shall govern the design and layout of blocks:

- (a) The arrangement of blocks shall be such as to conform to the street planning criteria set forth in Sections 1117.05 to 1117.14, inclusive, and shall be arranged to accommodate lots and building sites of the size and character required for the district as set forth in these Subdivision Regulations or the Zoning Ordinance and to provide for the required community facilities.
- (b) Irregularly shaped blocks, those intended for cul-de-sacs or loop-streets, and those containing interior parks or playgrounds, may be approved by the Planning and Zoning Commission if properly designed and located and if the maintenance of interior public spaces is covered by agreements.

- (c) No block shall be longer than 1,500 feet and the block width shall accommodate two (2) tiers of lots, except where unusual topography or other exceptional physical circumstances exist.
- (d) Where blocks are over 900 feet in length a crosswalk easement not less than ten (10) feet in width at or near the halfway point may be required, as necessary, to provide proper access to schools, recreational areas, shopping centers, and other facilities.

1117.17 LOTS.

The following regulations shall govern the design and layout of lots:

- (a) The lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to topography and the character of surrounding developments.
- (b) All lots shall conform to or exceed the requirements of these subdivision regulations and the zoning district requirements for the district in which they are located and the use for which they are intended.
- (c) Each lot shall front on a public thoroughfare.
- All side lot lines shall be at right angles to street lines and radial to curved street lines, except where the Planning and Zoning Commission determines that a variation to this rule would provide a better layout.
- (e) Lots with double frontage shall be avoided except where the Planning and Zoning Commission determines that it is essential to provide separation of residential development for arterial streets.
- (f) No lot shall have an average depth which is more than three (3) times its average width.
- (g) The primary ingress and egress to a lot should utilize the lot front area.

1117.18 EASEMENTS.

Easements at least 20 feet in width centered along rear or side lot lines shall be provided where necessary for sanitary sewers, gas mains, water lines, and electric lines. Easements shall also be provided along every watercourse, storm sewer, drainage channel, or stream within a subdivision, as provided for in Section 1117.19 of these regulations.

1117.19 FLOOD AREAS AND STORM DRAINAGE.

The following shall govern flood areas and storm drainage:

- (a) In order to protect the health, safety, and general welfare of the people, the Planning and Zoning Commission shall reject any proposed subdivision located in an area subject to periodic flooding. If the subdivision is located in an area having poor drainage or other adverse physical characteristics, the Planning and Zoning Commission may approve the subdivision provided the subdivider agrees to perform such improvements as will render the area safe for the intended use. After approval but prior to the beginning of any work, the subdivider shall furnish a surety as prescribed in Section 1113.14, covering the cost of the required improvements and warrantees.
- (b) Flood control or storm drainage easements containing underground facilities shall have a minimum width of 20 feet.
- (c) All storm sewers shall be sized according to the Rational Model (Q = CIA) for a five (5) year storm, or the Licking County Planning Commission standards as approved by the City Engineer.

1117.20 PUBLIC SITES, OPEN SPACE AND NATURAL FEATURES.

Where a park, playground, school, or public access to water frontage which is shown in the comprehensive development plan is located in whole or in part in the proposed subdivision, the Planning and Zoning Commission may require the dedication of such area within the subdivision.

1117.30 ACCESS MANAGEMENT.

The City of Pataskala defers to the most current and up to date regulations contained within Article 8 of the document entitled "Licking County Access Management and Congestion Prevention Regulations in Licking County" with the following two exceptions:

(a) Any reference to the Licking County Planning Commission (LCPC) is amended to read "the City of Pataskala Planning and Zoning Commission"

(b) Any reference to the Ohio Department of Transportation (ODOT), except in reference to manuals or specifications, is hereby deleted.

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CHAPTER 1119 Stormwater Management

1119.01	General provisions.	1119.06	Basic stormwater
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1119.01 GENERAL PROVISIONS.

(a) Findings of Fact. It is hereby determined that land development and redevelopment projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition; this stormwater runoff contributes to increased quantities of water-borne pollutants and stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites. Therefore, the City of Pataskala establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development and redevelopment projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety.

- (b) <u>Purpose</u>. The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This chapter seeks to meet that purpose through the following objectives:
 - (1) Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
 - (2) Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality:
 - (3) Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the predevelopment hydrologic regime to the maximum extent practicable;
 - (4) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.
- applications, unless eligible for an exemption or granted a waiver by the City of Pataskala under the specifications of Section 1119.04 of this chapter. The chapter also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must also be reviewed by the Ohio Environmental Protection Agency (OEPA) to ensure that established water quality standards will be maintained during and after development of the site and that post construction runoff levels are consistent with any local and regional watershed plans.
- (d) <u>Exemptions</u>. To prevent the adverse impacts of stormwater runoff, the City of Pataskala has developed a set of performance standards that must be met at new development sites. The EPA Stormwater Regulations apply to any construction activity disturbing one acre or more of land. The following activities may be exempt from the stormwater regulations:
 - (1) Any logging or agricultural activities which incorporate best management practices recommended by the Ohio Department of Natural Resources and are not subject to regulation by the Ohio Environmental Protection Agency or other applicable regulatory agencies or pursuant to a management plan prepared or approved by the City of Pataskala Planning and Zoning Department and/or Licking County Soil and Water Conservation District, as applicable.
 - (2) Developments that do not disturb more than 1 acre of land, provided they are not part of a larger common development plan; and as long as the amount of impervious cover created does not exceed 0.2 acres.
 - (3) Repairs to any existing stormwater treatment system deemed necessary by the City of Pataskala.

- (e) <u>Criteria</u>. When a site development plan is submitted that qualifies as a redevelopment project as defined in Section 1119.02 of this chapter, decisions on permitting and on-site stormwater requirements shall be governed by special stormwater sizing criteria found in the referenced Storm Water Design Manual. This criteria is dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by City of Pataskala.
- (f) <u>Compatibility with Other Permit and Ordinance Requirements</u>. This chapter is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this chapter should be considered minimum requirements, and where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.
- (g) <u>Severability</u>. If the provisions of any article, section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this chapter.
- (h) <u>Storm Water Design Manual</u>. The City of Pataskala may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this chapter and may provide such information in the form of a Storm Water Design Manual. This manual will include a list of acceptable stormwater treatment practices, including the specific design criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the local review authority, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards. (Ord. 2006-3675. Passed 5-15-06.)

1119.02 DEFINITIONS.

The following definitions shall apply to this chapter.

- (1) "Accelerated Erosion" means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.
- (2) "Applicant" means a property owner or agent of a property owner who has filed an application for a stormwater management permit.
- "Building" means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area
- (4) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
- (5) "Dedication" means the deliberate appropriation of property by its owner for general public use.

- (6) "Detention" means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.
- (7) "Detention Facility" means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.
- (8) "Developer" means a person who undertakes land disturbance activities.
- (9) "Drainage Easement" means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.
- (10) "Erosion and Sediment Control Plan" means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
- "Fee in Lieu" means a payment of money in place of meeting all or part of the storm water performance standards required by this chapter.
- "Hotspot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.
- "Hydrologic Soil Group (HSG)" means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.
- "Impervious Cover" means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).
- "Industrial Stormwater Permit" means an National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.
- (16) "Infiltration" means the process of percolating stormwater into the subsoil.
 - "Infiltration Facility" means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.
- "Jurisdictional Wetland" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.
- "Land Disturbance Activity" means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or manmade watercourse.
- "Landowner" means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

- (20) "Maintenance Agreement" means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.
- "Nonpoint Source Pollution" means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
- "Offset Fee" means a monetary compensation paid to a local government for failure to meet pollutant load reduction targets.
- "Off-Site Facility" means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.
- "On-Site Facility" means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.
- (25) "Recharge" means the replenishment of underground water reserves.
- "Redevelopment" means any construction, alteration or improvement exceeding 5,000 square feet in areas where existing land use is high density commercial, industrial, institutional or multi-family residential.
- "Stop Work Order" means an order issued which requires that all construction activity on a site be stopped.
- "Storm Water Management" means the use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.
- "Storm Water Retrofit" means a stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.
- (30) "Stormwater Runoff" means flow on the surface of the ground, resulting from precipitation.
- "Stormwater Treatment Practices (STPs)" means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff end water bodies.
- "Water Quality Volume (WQv)" means the storage needed to capture and treat 90% of the average annual stormwater runoff volume. Numerically (WQv) will vary as a function of long term rainfall statistical data.
- "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

The words "storm water" and "stormwater" shall be considered one and the same and may be used interchangeably.

(Ord. 2006-3675. Passed 5-15-06.)

1119.03 PERMIT PROCEDURES AND REQUIREMENTS.

(a) <u>Permit Required</u>. No land owner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this chapter prior to commencing the proposed activity.

(b) Application Requirements.

- (1) Unless specifically excluded by this chapter, any land owner or operator desiring a permit for a land disturbance activity shall submit to the City of Pataskala a permit application on a form provided for that purpose.
- Unless otherwise excepted by this chapter, a permit application must be accompanied by the following in order that the permit application be considered: a stormwater management concept plan; a maintenance agreement; and a non-refundable permit review fee.
- (3) The stormwater management plan shall be prepared to meet the requirements of Section 1119.05, the maintenance agreement shall be prepared to meet the requirements of Section 1119.09, and fees shall be those established by the City of Pataskala.
- (c) <u>Application Review Fees</u>. The fee for review of any land development application shall be based on the amount of land to be disturbed at the site, and the fee structure shall be established by the City of Pataskala. All of the monetary contributions shall be credited to a local budgetary category to support local plan review, inspection and program administration, and shall be made prior to the issuance of any building permit for the development.

(d) Application Procedure.

- (1) Applications for land disturbance activity permits must be filed with the City of Pataskala on any regular business day.
- (2) A copy of this permit application shall be forwarded to City of Pataskala for review.
- (3) Permit applications shall include the following: two copies of the stormwater management concept plan, two copies of the maintenance agreement, and any required review fees.
- (4) Within 30 business days of the receipt of a complete permit application, including all documents as required by this chapter, the City of Pataskala shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.
- (5) If the permit application, stormwater management plan or maintenance agreement are disapproved, the applicant may revise the stormwater management plan or agreement. If additional information is submitted, the City of Pataskala shall have 10 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
- (6) If the permit application, final stormwater management plan and maintenance agreement are approved by the City of Pataskala, all appropriate land disturbance activity permits shall be issued.

(e) <u>Permit Duration</u>. Permits issued under this section shall be valid from the date of issuance through the date the City of Pataskala notifies the permit holder that all stormwater management practices have passed the final inspection required under permit condition. (Ord. 2006-3675. Passed 5-15-06.)

1119.04 WAIVERS TO STORMWATER MANAGEMENT REQUIREMENTS.

(a) <u>Waivers for Providing Stormwater Management</u>. Every applicant shall provide for stormwater management as required by this Chapter, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the City of Pataskala for approval.

The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

(1) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter.

(2) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City of Pataskala and the implementation of the plan is required by local ordinance.

(3) Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.

(4) The City of Pataskala finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.

- (5) Non-structural practices will be used on the site that reduce:
 - A. The generation of stormwater from the site,
 - B. The size and cost of stormwater storage and
 - C. The pollutants generated at the site.

These non-structural practices are explained in detail in the current design manual and the amount of credit available for using such practices shall be determined by the City of Pataskala.

- (b) <u>Conditions For Waiver</u>. In instances where one of the conditions above applies, the City of Pataskala may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the City of Pataskala that the variance will not result in the following impacts to downstream waterways:
 - (1) Deterioration of existing culverts, bridges, dams, and other structures;
 - (2) Degradation of biological functions or habitat;
 - (3) Accelerated streambank or streambed erosion or siltation;
 - (4) Increased threat of flood damage to public health, life, property.

- (c) <u>Mitigation Requirements for Waiver</u>. Furthermore, where compliance with minimum requirements for stormwater management is waived, the applicant shall satisfy the minimum requirements by meeting one of the mitigation measures selected by the jurisdictional stormwater authority. Mitigation measures may include, but are not limited to, the following:
 - (1) The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation. These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat;
 - The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this chapter;
 - (3) Monetary contributions (Fee-in-Lieu) to fund stormwater management activities such as research and studies (e.g., regional wetland delineation studies, stream monitoring studies for water quality and macroinvertebrates, stream flow monitoring, threatened and endangered species studies, hydrologic studies, and monitoring of stormwater management practices.
- (d) Fee in Lieu of Stormwater Management Practices. Where the City of Pataskala waives all or part of the minimum stormwater management requirements, or where the waiver is based on the provision of adequate stormwater facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount as determined by the City of Pataskala. When an applicant obtains a waiver of the required stormwater management, the monetary contribution required shall be in accordance with a fee schedule (unless the developer and the stormwater authority agree on a greater alternate contribution) established by the City of Pataskala, and based on the cubic feet of storage required for stormwater management of the development in question. All of the monetary contributions shall be credited to an appropriate capital improvements program project, and shall be made by the developer prior to the issuance of any building permit for the development.
- (e) <u>Dedication of Land</u>. In lieu of a monetary contribution, an applicant may obtain a waiver of the required stormwater management by entering into an agreement with the City of Pataskala for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site stormwater management facility. The agreement shall be entered into by the applicant and the City of Pataskala prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit. (Ord. 2006-3675. Passed 5-15-06.)

1119.05 GENERAL PERFORMANCE CRITERIA FOR STORMWATER MANAGEMENT.

Unless judged by the City of Pataskala to be exempt or granted a waiver, the following performance criteria shall be addressed for stormwater management at all sites:

(a) All site designs shall establish stormwater management practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

- (b) All stormwater runoff generated from new development shall not discharge untreated stormwater directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the City of Pataskala. In no case shall the impact on functional values be any less than allowed by the Army Corp of Engineers (ACE) or the Ohio Department of Natural Resources.
- Annual groundwater recharge rates shall be maintained, by promoting infiltration through the use of structural and non-structural methods. At a minimum, annual recharge from the post development site shall mimic the annual recharge from predevelopment site conditions.
- (d) For new development and redevelopment, structural stormwater treatment practices shall be designed to remove a percentage of the average annual post development total suspended solids load (TSS) as specified in the Storm Water Design Manual. It is presumed that a STP complies with this performance standard if it is:
 - Sized to capture the prescribed water quality volume (WQv);
 - Designed according to the specific performance criteria outlined in the referenced Storm Water Design Manual;
 - (3) Constructed properly; and
 - (4) Maintained regularly.
- (e) All new development and redevelopment shall provide stormwater controls that will treat the specified volume of stormwater runoff as noted in the Storm Water Design Manual.
- To protect stream channels from degradation, a specific channel protection criteria shall be provided as prescribed in the referenced Storm Water Design Manual.
- (g) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.
- (h) Certain industrial sites are required to prepare and implement a stormwater pollution prevention plan, and shall file a notice of intent (NOI) under the provisions of the National Pollutant Discharge Elimination System (NPDES) general permit. The stormwater pollution prevention plan requirement applies to both existing and new industrial sites.
- (i) Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as "hotspots", may require the use of specific structural STPs and pollution prevention practices.
- (j) Prior to design, applicants are required to consult with the City of Pataskala to determine if they are subject to additional stormwater design requirements.
- (k) The calculations for determining peak flows as found in the referenced Stormwater Design Manual shall be used for sizing all stormwater management practices. (Ord. 2006-3675. Passed 5-15-06.)

1119.06 BASIC STORMWATER MANAGEMENT DESIGN CRITERIA.

(a) <u>Minimum Control Requirements</u>. All stormwater management practices will be designed so that the specific storm frequency storage volumes (e.g., recharge, water quality, channel protection, 10 year, 100 year) as identified in the Storm Water Design Manual are met, unless the City of Pataskala grants the applicant a waiver or the applicant is exempt from such requirements.

In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of Pataskala reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(b) <u>Site Design Feasibility</u>. Stormwater management practices for a site shall be chosen based on the physical conditions of the site. Among the factors that should be considered:

(1) Topography;

- (2) Maximum Drainage Area;
- (3) Depth to Water Table;
- (4) Soils;
- (5) Slopes;
- (6) Terrain;
- (7) Head;
- (8) Location in relation to environmentally sensitive features or ultra-urban areas.
- (c) Applicants shall consult the Storm Water Design Manual for guidance on the factors that determine site design feasibility when selecting a stormwater management practice.
- (d) <u>Conveyance Issues</u>. All stormwater management practices shall be designed to convey stormwater to allow for the maximum removal of pollutants and reduction in flow velocities. The Storm Water Design Manual shall provide detailed guidance on the requirements for conveyance for each of the approved stormwater management practices. This shall include, but not be limited to:
 - (1) Maximizing of flowpaths from inflow points to outflow points;
 - (2) Protection of inlet and outfall structures;
 - (3) Elimination of erosive flow velocities:
 - (4) Providing of underdrain systems, where applicable.
- (e) <u>Pretreatment Requirements</u>. Every stormwater treatment practice shall have an acceptable form of water quality pretreatment, in accordance with the pretreatment requirements found in the Storm Water Design Manual. Certain stormwater treatment practices, as specified in the Storm Water Design Manual, are prohibited even with pretreatment in the following circumstances:
 - (1) Stormwater is generated from highly contaminated source areas known as "hotspots;"
 - (2) Stormwater is carried in a conveyance system that also carries contaminated, non-stormwater discharges;

- (3) Stormwater is being managed in a designated groundwater recharge area;
- (4) Certain geologic conditions exist (e.g., karst) that prohibit the proper pretreatment of stormwater.
- (f) <u>Treatment/Geometry Conditions</u>. All stormwater management practices shall be designed to capture and treat stormwater runoff according to the specifications outlined in the Stormwater Design Manual. These specifications will designate the water quantity and quality treatment criteria that apply to an approved stormwater management practice.
- (g) <u>Landscaping Plans Required</u>. All stormwater management practices must have a landscaping plan detailing both the vegetation to be in the practice and how and who will manage and maintain this vegetation. This plan must be prepared by a registered landscape architect or soil conservation district.
- (h) <u>Maintenance Agreements</u>. All stormwater treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured prior to issuance of any permits for land disturbance activities.
- (i) <u>Non-Structural Stormwater Practices</u>. The use of non-structural stormwater treatment practices is encouraged in order to minimize the reliance on structural practices. Credit in the form of reductions in the amount of stormwater that must be managed can be earned through the use of non-structural practices that reduce the generation of stormwater from the site. These non-structural practices are explained in detail in the Storm Water Design Manual and applicants wishing to obtain credit for use of non-structural practices must ensure that these practices are documented and remain unaltered by subsequent property owners.

 (Ord. 2006-3675. Passed 5-15-06.)

1119.07 REQUIREMENTS FOR STORMWATER MANAGEMENT PLAN APPROVAL.

(a) Stormwater Management Plan Required for All Developments. No application for development or redevelopment will be approved unless it includes a stormwater management plan detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed. This plan must be prepared by an individual approved by the City of Pataskala and must indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices. The stormwater management plan(s) shall be referred for comment to all other interested agencies, and any comments must be addressed in a final stormwater management plan. This final plan must be signed by a licensed professional engineer (PE) or Registered or Certified Professional Geologist (RG or CPG), who will verify that the design of all stormwater management practices meet the submittal requirements outlined in the Submittal Checklist found in the Storm Water Design Manual. No building, grading, or sediment control permit shall be issued until a satisfactory final stormwater management plan, or a waiver thereof, shall have undergone a review and been approved by the City of Pataskala after determining that the plan or waiver is consistent with the requirements of this chapter.

- (b) Stormwater Management Concept Plan Requirements. A stormwater management concept plan shall be required with all permit applications and will include sufficient information (e.g., maps, hydrologic calculations, etc) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The intent of this conceptual planning process is to determine the type of stormwater management measures necessary for the proposed project, and ensure adequate planning for management of stormwater runoff from future development. To accomplish this goal the following information shall be included in the concept plan:
 - (1) A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural stormwater management and sediment control facilities. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading. A written description of the site plan and justification of proposed changes in natural conditions may also be required;
 - (2) Sufficient engineering analysis to show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the specifications of the Stormwater Design Manual;
 - (3) A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.
 - (4) A written description of the required maintenance burden for any proposed stormwater management facility;
 - (5) The City of Pataskala may also require a concept plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.
- (c) <u>Previously Developed Sites</u>. For development or redevelopment occurring on a previously developed site, an applicant shall be required to include within the stormwater concept plan measures for controlling existing stormwater runoff discharges from the site in accordance with the standards of this Chapter to the maximum extent practicable.
- (d) <u>Final Stormwater Management Plan Requirements</u>. After review of the stormwater management concept plan, and modifications to that plan as deemed necessary by the City of Pataskala, a final stormwater management plan must be submitted for approval. The final stormwater management plan, in addition to the information from the concept plan, shall include all of the information required in the Final Stormwater Management Plan checklist found in the Stormwater Design Manual.
 - (1) This includes:

- A. <u>Contact information</u>: The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected:
- B. Topographic Base Map: A 1" = 200' topographic base map of the site which extends a minimum of 1,000 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown;
- C. <u>Calculations</u>: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this Chapter. Such calculations shall include (i) description of the design storm frequency, intensity and duration, (ii) time of concentration, (iii) Soil Curve Numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area, (v) infiltration rates, where applicable, (vi) culvert capacities, (vii) flow velocities, (viii) data on the increase in rate and volume of runoff for the design storms referenced in the Stormwater Design Manual, and (ix) documentation of sources for all computation methods and field test results;
- D. <u>Soils Information</u>: If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil sits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure;
- E. <u>Maintenance and Repair Plan</u>: The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary.
- Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
 - A. <u>Landscaping plan</u>: The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect or by the soil conservation district;
 - B. <u>Maintenance Easements</u>: The applicant must ensure access to all stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property;

- C. <u>Maintenance agreement</u>: The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management measure in accordance with the specifications of this Chapter;
- D. Erosion and sediment control plans for construction of stormwater management measures: The applicant must prepare an erosion and sediment control plan for all construction activities related to implementing any on-site stormwater management practices;
- E. Other environmental permits: The applicant shall assure that all other applicable environmental permits have been acquired for the site prior to approval of the final stormwater design plan.
- (e) Performance Bond/Security. The City of Pataskala may, at its discretion, require the submittal of a performance security or bond prior to issuance of a permit in order to insure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management practices approved under the permit, plus twenty-five percent. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The installation performance security shall be released in full only upon submission of "as built plans" and written certification by a registered professional engineer that the stormwater practice has been installed in accordance with the approved plan and other applicable provisions of this Chapter. The City of Pataskala will make a final inspection of the stormwater practice to ensure that it is in compliance with the approved plan and the provisions of this Chapter. Provisions for a partial pro-rata release of the performance security based on the completion of various development stages can be done at the discretion of the City of Pataskala.

(Ord. 2006-3675. Passed 5-15-06.)

1119.08 CONSTRUCTION INSPECTION.

- (a) Notice of Construction Commencement. The applicant must notify the City of Pataskala in advance before the commencement of construction. Regular inspections of the stormwater management system construction shall be conducted by the staff of the City of Pataskala or certified by a professional engineer or their designee who has been approved by the jurisdictional stormwater authority. If any violations are found, the property owner shall be notified in writing of the nature of the violation and the required corrective actions. No added work shall proceed until any violations are corrected and all work previously completed has received approval by the City of Pataskala. All inspections shall be documented and written reports prepared that contain the following information:
 - (1) The date and location of the inspection;
 - (2) Whether construction is in compliance with the approved stormwater management plan;
 - (3) Variations from the approved construction specifications;
 - (4) Any violations that exist.
- (b) <u>As Built Plans</u>. All applicants are required to submit actual "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. A final inspection by the City of Pataskala is required before the release of any performance securities can occur.

- (c) <u>Landscaping and Stabilization Requirements</u>. Any area of land from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within ten days from the substantial completion of such clearing and construction. The following criteria shall apply to revegetation efforts:
 - (1) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent of the seeded area;
 - (2) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion;
 - Any area of revegetation must exhibit survival of a minimum of seventyfive percent of the cover crop throughout the year immediately following revegetation;
 - (4) Revegetation must be repeated in successive years until the minimum seventy-five percent survival for one year is achieved.
- (d) <u>Landscaping Plan</u>. In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect or by the soil conservation district, and must be approved prior to receiving a permit. (Ord. 2006-3675. Passed 5-15-06.)

1119.09 MAINTENANCE AND REPAIR OF STORMWATER FACILITIES.

- (a) Maintenance Easement. Prior to the issuance of any permit that has an stormwater management facility as one of the requirements of the permit, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the City of Pataskala, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Chapter. The easement agreement shall be recorded by the City of Pataskala in the land records.
- (b) <u>Maintenance Covenants</u>. Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the City of Pataskala and recorded into the land record prior to final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts. The City of Pataskala, in lieu of a maintenance covenant, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

- (c) Requirements for Maintenance Covenants. All stormwater management facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this Chapter and accomplishment of its purposes. These needs may include: removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner, as determined by the City of Pataskala, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater management facility.
- (d) <u>Inspection of Stormwater Facilities</u>. Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.
- (e) <u>Right-of-Entry for Inspection</u>. When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall grant to the City of Pataskala the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this Chapter is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this Chapter.
- (f) Records of Installation and Maintenance Activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least 5 years. These records shall be made available to the City of Pataskala during inspection of the facility and at other reasonable times upon request.
- (g) Failure to Maintain Practices. If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the City of Pataskala, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of Pataskala shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have ten days to effect maintenance and repair of the facility in an approved manner. After proper notice, the City of Pataskala may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the county.

 (Ord. 2006-3675. Passed 5-15-06.)

1119.10 ENFORCEMENT AND PENALTIES.

- (a) <u>Enforcement.</u> The City of Pataskala shall be responsible for enforcement of these stormwater runoff control regulations and shall not allow any development of land area unless such development meets the design requirements herein. The City of Pataskala shall not approve the final plat of any development or subdivision over which it has jurisdiction without certification that such development or subdivision shall be in full compliance with the design requirements herein.
- (b) <u>Violations</u>. Any development activity that is commenced or is conducted contrary to this Chapter, may be restrained by injunction or otherwise abated in a manner provided by law.
- (c) <u>Notice of Violation</u>. When the City of Pataskala determines that an activity is not being carried out in accordance with the requirements of this Chapter, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

(1) The name and address of the owner or applicant;

The address when available or a description of the building, structure or land upon which the violation is occurring;

(3) A statement specifying the nature of the violation;

- (4) A description of the remedial measures necessary to bring the development activity into compliance with this Chapter and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (6) A statement that the determination of violation may be appealed to the Municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.
- (d) <u>Stop Work Orders</u>. Persons receiving a notice of violation will be required to halt all construction activities. This "stop work order" will be in effect until the City of Pataskala confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this Chapter.
- (e) <u>Civil and Criminal Penalties</u>. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Chapter, including any violation of conditions and safeguards established in various sections of this Chapter or fails to comply with any of its requirements shall be fined not more than \$100.00 or imprisoned for not more than 30 days, or both, per violation. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.
- (f) <u>Restoration of Lands</u>. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City of Pataskala may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- (g) <u>Holds on Occupation Permits</u>. Occupation permits will not be granted until corrections to all stormwater practices have been made and accepted by the City of Pataskala. (Ord. 2006-3675. Passed 5-15-06.)

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CHAPTER 1121 Improvement Requirements

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CROSS REFERENCES Construction of improvements - see Ohio R.C. 711.101

1121.01 REQUIREMENTS FOR BUILDING PERMIT ISSUANCE.

Building permits cannot be issued and lot developments cannot be started until Sections 1121.02 to 1121.09, inclusive, are completed.

1121.02 GUARANTEE FOR INSTALLATION OF IMPROVEMENTS.

All improvements, extensions, or up-grades required herein shall not begin in any form, except those for the sole purpose of any surveying required, prior to the subdivider furnishing the Commission with a surety as prescribed in Section 1113.14(a) and (b).

1121.03 CONSTRUCTION PROCEDURE AND MATERIALS.

- (a) The subdivider shall design and construct improvements not less than the standards outlined in these regulations. The work shall be done under City supervision and inspection, and shall be completed within the time fixed on the approved print or permit, or agreed upon in writing with the Planning and Zoning Commission and the City Engineer unless otherwise approved in writing. The minimum requirements for materials shall be in accordance with the standards of the current volume of "Construction and Material Specifications" of the State of Ohio Department of Transportation, or the requirements of the City of Columbus Construction and Material Specifications, if approved by the City Engineer, the requirements of the Ohio Department of Health, and any applicable EPA requirements. All inspection costs including any re-inspection fees shall be paid by the subdivider. All inspection fees shall be paid in full before the approved signature is affixed to the approved print or permit. All re-inspection fees must be paid in advance of the re-inspection.
- (b) There shall be no starting of any new structures within the new development until the approved print or permit is signed by the necessary City department's authorized representative, and Zoning Officer as "Approved".

1121.04 MONUMENTS, MARKERS AND PINS.

Permanent concrete monuments shall be set according to the provisions of Ohio R.C. 711.03. The developer shall direct the surveyor to place and set at least four permanent markers in each plat of ten lots or less and, in plats having more than ten lots, as many additional permanent markers as the surveyor deems necessary to properly control his original survey. In addition, at least one monument box assembly shall be set on the centerline of any new street created for any subdivision or addition, and the surveyor shall place additional permanent markers in accordance with Ohio R.C. 711.03, or with the approval of the County Engineer. The developer shall direct and cause the surveyor to place and set at least one benchmark tied to USGS elevation data.

1121.05 STREET IMPROVEMENTS.

All streets shall be graded to their full width, including side slopes, and improved in conformance with the standards given or referred to in these regulations.

All street improvements shall be inspected, at the Subdivider's expense, by the City Engineer.

The type of inspection shall be as required to confirm that the materials and construction procedures conform with the current editions of the specifications referenced in Section 1121.03 and any other applicable standards specified in these regulations. The inspection will be provided by the City Engineer or his designated representative. Full-time inspection may be required when in the opinion of the City Engineer such inspection is necessary to assure conformance to these regulations. When requested, the subdivider shall provide material and/or test records required to verify conformance to these regulations.

Inspection requirements shall be applicable to the construction of all storm drainage facilities.

1121.06 STREET WIDTH.

Minimum street pavement widths shall conform to the standards given in Chapter 1117.

1121.07 STREET SUBGRADE.

The subgrade shall be free of sod, vegetative or organic matter, soft clay, and other objectionable materials for a depth of at least two feet below the finished surface. The subgrade shall be properly rolled, shaped, and compacted, and shall be subject to the approval of the City Engineer.

1121.08 STREET BASE COURSE.

The developer has the option of using any of the following base courses, based upon recommendations of the City Engineer as to soil and traffic conditions: aggregate, bituminous aggregate, asphaltic concrete, waterbound macadam, Portland Cement concrete, or equally suitable base course. Thickness shall be determined by the City Engineer, based upon the physical properties of the base course used and the physical properties of the roadbed.

1121.09 STREET SURFACE COURSE.

Upon the expiration of the established maintenance period for the base course, the surface course shall be constructed using either asphaltic concrete, bituminous mix, or Portland Cement concrete. Specific material and thickness recommendations shall be determined by the City Engineer, based upon traffic conditions.

1121.10 PORTLAND CEMENT CONCRETE PAVEMENT.

If the subdivider elects to construct streets totally out of Portland Cement concrete or if such pavement is required by the City Engineer, thickness of six (6) inches for local and collector streets and seven (7) inches for arterial, commercial, and industrial streets shall be required. The Planning and Zoning Commission may require pavement of greater thickness, upon the recommendation of the City Engineer, based upon his evaluation of the subgrade, traffic, and wheel load conditions.

1121.11 FULL-DEPTH ASPHALT PAVEMENT.

If streets are to be constructed out of "full-depth" asphalt, an asphalt pavement in which asphalt-aggregate mixtures are used for all courses above the subgrade, careful inspection of the subgrade may be necessary to determine pavement thickness. For local streets, pavements may vary from four (4) to six (6) inches depending upon subgrade conditions. For collector streets, pavements shall vary from five (5) to nine (9) inches, and for arterial and industrial streets, from six (6) to 11 inches. Final design thickness shall be approved by the City Engineer.

1121.12 STREET CURBS AND GUTTERS.

The requirement for curbs and gutters will vary according to the character of the area and the density of the development. Curbs shall be required on all streets for residential developments, while curbs and gutters shall be required for all developments where the existing or anticipated residential density of the area surrounding the proposed subdivision equals or exceeds two (2) dwelling units per acre. In commercial developments, or where other similar intensive urban uses exist or are anticipated, curbs and gutters shall be required. Curbs, combined curbs, and gutters shall be constructed in conformance with the most current "Construction and Material Specifications" of the City of Columbus.

No natural drainage course shall be altered and no fill, buildings or structures shall be placed in it, unless provisions are made for the flow of water in a manner satisfactory to the City Engineer. An easement shall be provided on both sides of any existing important surface drainage course adequate for the purpose of protecting, widening, deepening, enclosing or otherwise improving such stream for drainage purposes. (Ord. 2002-3423. Passed 3-4-02.)

1121.13 DRIVEWAYS.

Driveways shall have a maximum grade of 10 percent. Driveways and curb cuts shall be located not less than three (3) feet from the side lot line. Curb cuts for straight curbs and the flare for rolled curbs shall be three (3) feet wider than the driveway pavement on each side. Driveways shall conform to the City standard driveway construction drawing.

1121.14 STREET NAME SIGNS AND STREET NAMING.

- (a) Street name signs, of a type approved or in use throughout the City, shall be erected by the subdivider at all intersections before building permits can be issued on said streets.
- (b) Whenever a new street is constructed along the approximate alignment or extension of an existing street, its name shall be the same as that of the existing one.
- (c) Whenever a street alignment changes direction more than 75 degrees without a return to the original alignment within a distance of 500 feet, then the name of the street shall be changed at the point of curvature.
- (d) Whenever a cul-de-sac street serves not more than three (3) lots, the name of the intersection street shall apply to the cul-de-sac.
- (e) To avoid duplication and confusion, the proposed names of all streets shall be approved by the Planning and Zoning Commission and City Engineer prior to such names being assigned or used.

1121.15 STREET AND WALKWAY LIGHTING.

- (a) Subdividers shall provide for and arrange for the installation of the City Standard post-type electric street light within every subdivision, one at each intersection, with all electric service to such lights located underground.
- (b) Subdividers shall provide for or shall by deed restriction or other means require builders to provide for permanently installed front yard pole-type lights in accordance with the following:
 - (1) Design, style, and specifications for such lights shall be submitted to Planning and Zoning at the time of preliminary plat review.
 - (2) There shall be one light per lot, single-family dwelling unit, or 125 linear feet of frontage, whichever measurement results in more lights.
 - (3) All such lights shall be controlled by photo-electric switch and shall not be switchable from inside the residence except from the circuit panel.
 - (4) The electricity for all such lights shall be furnished from the property on which the light is located.
- (c) Subdividers shall provide for deed restrictions which require the continued maintenance, lighting and periodic replacement of worn out fixtures.

1121.16 STREET TREES.

The following regulations shall govern the retention of existing trees and the planting of all required street trees.

(a) All trees having a circumference (as measured 4 and ½ feet from the ground) of 24 or more inches shall, unless otherwise authorized by the Planning and Zoning Commission, be preserved whenever a proposed subdivision has been submitted for approval.

(b) In order to better protect trees and their respective root systems from possible damage during the construction of a subdivision, no earth shall be permitted to be moved or blacktop or concrete poured, within two feet of the base of all trees having a circumference of less than 36 inches. Similarly, no earth shall be permitted to be moved or blacktop or concrete poured within four feet of the base of all trees having a circumference of between 36 and 59 inches; six feet of the base of all trees having a circumference of between 60 and 83 inches; and eight feet of the base of all trees having a circumference of 84 inches or more. In addition, wooden staking or brick barriers shall completely surround such a preservation zone in order to further protect against potential harm from construction equipment. Further, no fill dirt shall be permitted to be placed within such a preservation zone in order to help prevent possible root damage.

(c) Unless authorized by the Planning and Zoning Commission, no construction equipment shall, during the earth-moving process, be permitted to interfere with

the integrity of a tree's branching system.

1121.17 WATER SUPPLY IMPROVEMENTS.

The following requirements shall govern water supply improvements:

Where a public water supply is required, the subdivider shall be provided a complete water distribution system, including a connection for each lot and appropriately spaced fire hydrants. Public water distribution shall meet the requirements of the Ohio Environmental Protection Agency, the City of Pataskala, and the Southwest Licking Community Water and Sewer District (where applicable).

1121.18 FIRE PROTECTION.

Fire hydrants with two and one-half (2 1/2) inch outlets and one (1) large pumping connection shall be provided by the subdivider in all subdivisions. The hydrant should be located between property lines and curbs with all outlets facing or parallel to the street. Hydrants shall be placed at the corners of all blocks and at mid-block for blocks exceeding 800 feet in length. Hydrants shall also be required at the entrance and end of all cul-de-sacs exceeding 400 feet in length.

1121.19 SANITARY SEWER IMPROVEMENTS.

The following requirements shall govern sanitary sewer improvements:

Where the public water and wastewater system is installed, they shall be installed to adequately serve all lots, including lateral connections to the public system. Public water and wastewater system extensions shall meet the Ohio Environmental Protection Agency standards and the City of Pataskala requirements in addition to the standards of the Southwest Licking Community Water and Sewer District where applicable. Any combinations of sanitary sewers and storm sewers shall be prohibited.

1121.20 DRAINAGE IMPROVEMENTS.

The subdivider shall construct all necessary facilities including underground pipe, inlets, catch basins, or open drainage ditches, as determined by the City Engineer, to provide for the adequate disposal of subsurface and surface water and maintenance of natural drainage courses. The velocity of flow in an open ditch shall not exceed four (4) feet per second in soil ditches or six (6) feet per second in turf gutters. Paved gutters will be required if velocities of flow are greater than those specified or if it is otherwise likely that destructive erosion will result. Drainage ditches shall not be permitted to discharge into any sanitary sewer facility.

1121.21 STORM SEWERS AND STORM WATER DRAINAGE.

Where an adequate public storm sewer is available at the plat boundary, the subdivider shall construct a storm sewer system and connect with such storm sewer line. If such a storm sewer system is not accessible, natural drainage channels with easements of adequate width shall be provided, as determined by the City Engineer and approved by the Planning and Zoning Commission. Paved gutters or storm sewers shall be required if velocities of flow are greater than specified in Section 1121.20 of these regulations or cause destructive erosion. Storm drainage, including drain tile around basements, shall not be permitted to discharge into any sanitary sewer facility, but shall connect to an adequate drainage outlet.

1121.22 CULVERTS AND BRIDGES.

Where natural drainage channels intersect any street right-of-way, it shall be the responsibility of the subdivider to have satisfactory bridges and/or culverts constructed and inspected by the City Engineer. Where culverts are required, minimum requirements shall be observed as follows:

- (a) All culverts shall extend across the entire right-of-way width of the proposed street. The cover over the culvert and its capacity shall be determined approved by the City Engineer. The minimum diameter of a culvert pipe shall be 18 inches. Depending on existing drainage conditions, head walls may be required.
- (b) Driveway culverts shall have a minimum length of 40 feet, and a minimum diameter of 12 inches. The driveway culverts shall be laid so as to maintain the flow lines of the ditch or gutter. Head walls may be required.

1121.23 ELECTRIC, GAS, TELEPHONE, AND CABLE TELEVISION IMPROVEMENTS.

- (a) Electric, telephone and Cable TV service shall be provided within each subdivision. Gas service may be required where reasonably accessible. Whenever such facilities are reasonably accessible and available, they may be required to be installed within the area prior to the approval of the final plat. Telephone, electric, Cable TV and street lighting wires, conduits and cables shall be constructed underground except in cases where the City Engineer determines that topographic, bedrock, or underground water conditions would result in excessive hardship to the subdivider.
- (b) Overhead utility lines, where permitted, shall be located at the rear of all lots. The width of the easement per lot shall be not less than five (5) feet and the total easement width shall be not less than ten (10) feet.
- (c) Whenever a sanitary sewer line, electric Cable TV, and/or telephone line is each placed underground in the same utility easement, the following provisions shall be applicable:
 - (1) The total easement width shall be not less than 20 feet.
 - The sanitary sewer line shall be installed within three (3) feet of one side of the easement, and the electric and/or telephone lines shall be installed within three (3) feet of the opposite side of the easement.
 - (3) The sanitary sewer and the water supply lines shall always be at least four feet (4') apart.

1121.24 OVER-SIZED AND OFF-SITE IMPROVEMENTS.

The utilities, pavements, and other land improvements required for the proposed subdivision shall be designed to include any "oversized and/or extensions", necessary to serve nearby land which is an integral part of the neighborhood services or drainage area as determined by the City Engineer, Department of Utility Services and/or Planning and Zoning Commission.

1121.25 COST OF OVER-SIZED IMPROVEMENTS.

The subdivider shall be required to pay for only that part of the construction costs for the arterial streets, storm drains, water and wastewater lines which are serving the proposed subdivision as determined by the City Engineer and Department of Utility Services and approved by the Planning and Zoning Commission. The City shall provide the Subdivider with a contract, agreeable to the City and the Subdivider, providing some type of recipient for the "oversized, extensions, or excess capacities" that may be required of the Subdivider for the proposed subdivision and improvements to service the surrounding areas specified in Section 1121.24.

1121.26 EXTENSIONS TO BOUNDARIES.

The subdivider may be required to extend the necessary improvements to the boundary of the proposed subdivision to serve adjoining unsubdivided land, as recommended by the City Engineer, Department of Utility Services and determined by the Planning and Zoning Commission.

1121.27 OFF-SITE EXTENSIONS.

If streets or utilities are not available at the boundary of a proposed subdivision, and if the Planning and Zoning Commission finds the extensions across undeveloped areas would not be warranted as a special assessment to the intervening properties or as a City expense until some future time, the subdivider may be required, prior to approval of the final plat, to obtain necessary easements or rights-of-way and construct and pay for such extensions. Such improvements shall be available for connections by subdividers of adjoining land.

1121.28 FINAL INSPECTION.

Upon completion of all the improvements, the subdivider shall request, in writing, a final inspection by the City Engineer, as required under Ohio R.C. 711.091.

1121.29 PROCEDURE FOR ACCEPTANCE - OFFICIAL REPORTS.

After completion and final inspection and approval of all improvements, the City Engineer shall make a report thereon to the Planning and Zoning Commission and then to the City Council, indicating whether the improvements comply with the requirements of these regulations. In case of noncompliance, the subdivider shall be so notified, and requested to make the further improvements as necessary.

In case of community water supply and sewage disposal systems, the report of the City Engineer shall be accompanied by a favorable report on such installations, by the State Board of Health, Ohio Environmental Protection Agency, or other appropriate authority.

1121.30 CONDITIONS FOR ACCEPTANCE.

When a report has been received from the official engineer or other official involved, certifying that the improvements comply with applicable standards, the City Council shall accept such improvements for public maintenance and operation. Such acceptance shall not be given until the developer has signed a contract guaranteeing that, if construction defects occur within a period of one (1) year, said developer will correct such defects to the satisfaction of the official engineer without cost to the City or the County. The City retains the right to require additional time beyond one year in the event of special circumstances or difficulties during the period of construction.

If succeeding phases of an approved subdivision will be using an existing road for access an additional surety may be required to cover any damage to the pavement. The Engineer shall make an evaluation of the road prior to the start of any construction activities. An evaluation may be made at the completion of each phase to determine damage. The City Administrator shall determine the adequacy of a surety.

CHAPTER 1123 Administration and Enforcement

1123.01 1123.02	Recording of plat. Revision of plat after approval.	1123.05 1123.06	Variances. Right to appeal.
1123.03	Sale of land within subdivisions.	1123.99	Penalty.
1123.04	Schedule of fees, charges and expenses.		

CROSS REFERENCES
Violation of rules and regulations - see Ohio R.C. 711.101

1123.01 RECORDING OF PLAT.

No plat of any subdivision shall be recorded by the County Recorder of Licking County or have any validity until said plat has received final written approval by the Planning and Zoning Commission and has been signed by the Chairperson in the manner prescribed in these regulations.

1123.02 REVISION OF PLAT AFTER APPROVAL.

No changes, erasures, modifications, or revisions shall be made in any plat of a subdivision after written approval has been given by the Planning and Zoning Commission and has been signed by the Chairperson, or authorized person, and endorsed in writing on the plat, unless said plat is first resubmitted to the Planning and Zoning Commission.

1123.03 SALE OF LAND WITHIN SUBDIVISIONS.

No owner or agent of the owner of any land located within a subdivision shall transfer or sell any land by reference to, exhibition of, or by the use of a plat of the subdivision before such plat has been approved and recorded in the manner prescribed in these regulations. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from the provisions of these regulations.

1123.04 SCHEDULE OF FEES, CHARGES AND EXPENSES.

The City Council upon recommendation of the Planning and Zoning Commission shall establish a schedule of fees, charges, and expenses, and a collection procedure for same, and other matters pertaining to these regulations. The schedule of fees shall be posted in the office of the Director of Finance, and may be altered, or amended only by the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

1123.05 **VARIANCES.**

The following regulations shall govern the granting of variances:

- (a) Where the Board of Zoning Appeals finds that extraordinary and unnecessary hardship may result from strict compliance with these regulations, due to exceptional topographic or other physical conditions, it may vary the regulations so as to relieve such hardship, provided such relief may be granted without detriment to the public interest and without impairing the intent and purposes of these regulations or the desirable development of the neighborhood and community. Such variations shall not have the effect of nullifying the intent and purpose of these regulations, the comprehensive plan, or the Zoning Ordinance, if such exists.
- (b) In granting variances or modifications, the Board of Zoning Appeals may require such conditions as will, in its judgment, secure substantially the objective of the standards or requirements so varied or modified.

1123.06 RIGHT TO APPEAL.

Any person who believes he has been aggrieved by a decision of the Zoning Inspector may appeal the matter to the Board of Zoning Appeals. All appeals shall be made via application available through the Zoning Clerk, who will cause the latter to be placed on the agenda of the next regularly scheduled meeting of the Board of Zoning Appeals which has space available on said agenda. At the scheduled meeting, the Board of Zoning Appeals shall either affirm, reverse, or modify a decision of the Zoning Inspector. Any appeal of a Board of Zoning Appeals decision shall be made through the applicable Court of Common Pleas.

1123.99 PENALTY.

The following penalties shall apply to the violations of these regulations:

- (a) Whoever violates any rule or regulation adopted by the City Council for the purpose of setting standards and requiring and securing the construction of improvements within a subdivision or fails to comply with any order pursuant thereto is creating a public nuisance. Whoever violates these regulations shall be charged with a misdemeanor of the first degree and upon conviction be imprisoned for no more than six months and fined no more than \$1,000.00.
- (b) A County Recorder who records a plat contrary to the provisions of these regulations shall forfeit and pay not less than \$500.00 nor more than \$1,000.00 to be recovered with costs in a civil action by the City Law Director in the name and for the use of the City.
- (c) Whoever, being the owner or agent of the owner of any land within a City corporation, transfers any lot, parcel, or tract of land from or in accordance with a plat of a subdivision before the plat has been recorded in the office of the County Recorder, shall be charged with a misdemeanor of the first degree and upon conviction be imprisoned for no more than six months and fined no more than \$1,000.00. The description of the lot, parcel, or tract by metes and bounds in the deed or transfer shall not serve to exempt the seller from this provision.
- (d) Each day during which any of the above violations continue shall be deemed a separate offense and punishable under the terms of this section.

CODIFIED ORDINANCES OF PATASKALA

PART TWELVE - ZONING CODE

TITLE ON	L - Zoni	ng Aaminisi	ration
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Chap. 1203. Definitions.

Chap. 1205. Measurements.

Chap. 1207. Administration.

Chap. 1209. Enforcement and Penalty.

Chap. 1211. Appeals and Variances.

Chap. 1213. Similar Uses.

Chap. 1215. Conditional Uses.

Chap. 1217. Amendments.

TITLE THREE - Zoning Districts and Regulations

Chap. 1221. General Regulations.

Chap. 1223. Distressed Properties.

Chap. 1225. Agricultural District (AG).

Chap. 1227. Rural Residential District (RR).

Chap. 1229. Medium-Low Density Residential District (R-87).

Chap. 1231. Medium Density Residential District (R-20). Chap. 1233. Medium-High Density Residential District (R-15).

Chap. 1235. High Density Residential District (R-10).

Chap. 1237. Village Single Family Residential District (R-7).

Chap. 1239. Multi-Family Residential District (R-M).

Chap. 1241. Manufactured Home Residential District (R-MH).

Chap. 1243. Professional Research-Office District (PRO).

Chap. 1245. Downtown Business District (DB). Chap. 1247. Local Business District (LB).

Chap. 1249. General Business District (GB).

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

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.

Chap. 1215. Conditional Uses.

Chap. 1217. Amendments.

CHAPTER 1201 Purpose and Interpretation

EDITOR'S NOTE: The City Zoning Ordinance codified as Title One and Three of this Part Twelve-Zoning Code was adopted by Ordinance 2001-3397 passed August 20, 2001. Subsequent amendments to Ordinance 2001-3397 will be indicated by legislative histories placed at the end of the official sections.

1201.01	Title.	1201.05	Provisions cumulative.
1201.02	Relationship to the Charter of	1201.06	Separability clause.
	the City of Pataskala, Ohio.	1201.07	Repeal of conflicting
1201.03	Purpose.		ordinance; effective date.
1201.04	Provisions declared minimum	1201.08	Applicability.
	requirements.		•

CROSS REFERENCES

Interpretation generally - see ADM. Ch. 101 Intent of regulations - see P. & Z. 1221.02

1201.01 TITLE.

These regulations shall be known and may be cited as the Zoning Code of the City of Pataskala, Ohio. Unless otherwise provided herein or by the law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this Code as those governing the interpretation of the Charter of the City of Pataskala, Ohio.

1201.02 RELATIONSHIP TO THE CHARTER OF THE CITY OF PATASKALA, OHIO.

Wherever the requirements of this Code conflict with the Charter of the City of Pataskala, the Charter shall govern.

1201.03 PURPOSE.

This Zoning Code is adopted to promote and protect the public health, safety, convenience, comfort, prosperity and general welfare by regulating and limiting the use of land areas and buildings and the erection, restoration and alteration of buildings and the use thereof for residential, business and industrial purposes; to regulate the area and dimensions of land, yards and open spaces so as to secure adequate light, air and safety from fire and other dangers; to lessen or avoid congestion in the public streets; to regulate and restrict the bulk, height, design, percent of lot occupancy and the location of buildings; to protect the character of the existing agricultural, residential, business, industrial, and institutional areas and to assure their orderly and beneficial development; to provide for the orderly growth and development of lands, and for the purpose of dividing the City into various districts.

1201.04 PROVISIONS DECLARED MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this Code shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Wherever the requirements of this Code conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, or resolutions, the most restrictive, or that imposing the higher standards shall govern. Wherever the requirements of this Code conflict with the Charter of the City of Pataskala, the Charter shall govern.

1201.05 PROVISIONS CUMULATIVE.

The provisions hereof are cumulative and are additional limitations on all other laws and ordinances heretofore passed or which may be hereafter passed governing any subject matter of this Code. Nothing herein shall be deemed or construed to repeal, amend, modify, alter or change any other ordinance or any part hereof not specifically repealed, amended, modified, altered or changed herein, except in such particulars or matters as the Zoning Code is more restrictive than such other ordinances or parts thereof and that in all particulars wherein the Zoning Code is not more restrictive, each such other ordinance shall continue and shall be in full force and effect.

1201.06 SEPARABILITY CLAUSE.

Should any section or provision of this Code be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Code as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

1201.07 REPEAL OF CONFLICTING ORDINANCE; EFFECTIVE DATE.

All ordinances or parts of ordinances in conflict with this Zoning Code or inconsistent with the provisions of this Code are hereby repealed to the extent necessary to give this Code full force and effect. This Code shall become effective from and after the date of its approval and adoption, as provided by the Charter of the City of Pataskala.

1201.08 APPLICABILITY.

The regulations set forth in this Zoning Code shall be applicable to all buildings, structures, uses and land of any political subdivision, district, taxing unit or bond-issuing authority located within the corporate limits of the City, except that these regulations shall not be applicable to the City of Pataskala itself.

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CHAPTER 1203 Definitions

1203.01 Defining words. 1203.02 Use of terms. 1203.03 Definitions.

CROSS REFERENCES
General definitions - see ADM. 101.02
Adult entertainment definitions - see P. & Z. Ch. 1271

1203.01 DEFINING WORDS.

Words and terms not specifically defined in Section 1203.03 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. (Ord. 2006-3733. Passed 12-18-06.)

1203.02 USE OF TERMS.

Tense and usage.

- The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- Words used in the present tense include the future tense. The reverse is also true.
- Words used in the singular include the plural. The reverse is also true.
- Words pertaining to gender shall be interchangeable. The word "he" shall mean "she." The reverse is also true.
- The words "must," "will," and "shall" are mandatory requirements, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.
- The words "used" and "occupied" include the words "intended, designed, or arranged to be used or occupied."
- Definitions in this chapter are not meant to imply a standard; for specific standards, refer to the applicable section of the Code.

Conjunctions. Unless the context clearly indicates otherwise, the following conjunctions have the following meanings:

- "And" indicates that all connected items or provisions apply.
- "Or" indicates that the connected items or provisions may apply singly or in combination.
- "Either... or" indicates that the connected items or provisions apply singly, but not in combination.

1203.03 DEFINITIONS.

Accessory Use or Structure: Use or structure that is customarily incidental to the principal permitted use or structure on a property; it pertains to or depends on the principal use for its existence.

<u>Administrative and Business Offices</u>: Offices which carry on no retail trade with the public and maintain no stock of goods for sale to customers.

Adult Entertainment Facilities: Definitions are located in Chapter 1271.

Agriculture: The use of land for farming; ranching; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production; or land devoted to a soil conservation or forestry management program.

<u>Airport</u>: Any runway, land area, or other facility designed or used either publicly or privately by any person for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars, and other necessary buildings, and open spaces.

Alley: See Thoroughfare.

<u>Alterations</u>, <u>Structural</u>: Any change in the supporting members of a building such as load-bearing walls, columns, beams, or girders, or in the dimensions or configuration of the roof or exterior walls.

<u>Ancillary retail/service:</u> Means a commercial establishment where retailing or business services are dependent upon another function performed on site, or where they are dependent upon each other.

<u>Automotive Repair</u>: The repair, rebuilding, or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

<u>Automotive and Farm Implement Sales:</u> The sale or rental of new and used motor vehicles or farm implements, but not including repair work except incidental warranty repair of same, to be displayed and sold on the premises.

<u>Automotive Wrecking</u>: The dismantling or wrecking of used motor vehicles, mobile homes, trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts. (Ord. 2001-3397. Passed 8-20-01.)

<u>Balcony</u>: A platform attached to the principal structure projecting from the wall above the ground floor. (Ord. 2016-4267. Passed 10-3-16.)

<u>Basement</u>: A story all or partly below grade but having at least one-half of its height below the average level of the adjoining ground.

Bed and Breakfast: A private residence where lodging and breakfast is provided by a resident family for compensation. Such a facility is generally used by transients.

<u>Beginning of Construction</u>: The incorporation of labor and material within the walls of the building or buildings, the incorporation of labor and materials at the site, lot or parcel where a building is to be constructed; the incorporation of labor and material where land is to be used for purposes other than construction of a building.

<u>Bikeway</u>: A public way for non-motorized transportation use, whether along the side of a road or not.

Board: Board of Zoning Appeals.

<u>Boarding or Lodging House</u>: A dwelling or part thereof where meals and/or lodging is provided for three or more persons for compensation by previous arrangement, but not transients.

<u>Buffer Strip</u>: Open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically separate or screen one use or property from another.

<u>Building</u>: Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property.

Building, Accessory: A subordinate structure on the same lot as the principal or main building or use.

<u>Building Height</u>: The vertical distance measured from the average elevation of the proposed finished grade at the base point of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip, and gambrel roofs. (See Section 1205.05A.)

Building Line: See Setback Line.

<u>Building Permit</u>: Written permission issued by the proper municipal authority for the construction, repair, alteration, or addition to a structure.

<u>Building</u>, <u>Principal</u>: A building in which is conducted the main or principal use of the lot on which it is situated.

<u>Bulk Storage</u>: The storage of chemicals, petroleum products, grains, aggregates, and other materials in structures for subsequent resale to distributors or retail dealers or outlets.

<u>Business</u>, <u>General</u>: Commercial uses which generally require location on or near major thoroughfares and/or their intersections, and which tend, in addition to serving day-to-day needs of the community, to supply the more durable and permanent needs of the whole community.

<u>Business, Local</u>: Commercial establishments which cater to and can be located in close proximity to or within residential districts without creating undue vehicular congestion, excessive noise, or other objectionable influences. Businesses in this classification tend to serve a day-to-day need in the neighborhood.

<u>Business</u>, <u>Office Type</u>: Quasi-commercial uses which may often be transitional between retail business and/or manufacturing, and residential uses. Office business generally accommodates administrative, executive, professional, or institutional operations.

<u>Business</u>, <u>Services</u>: Any for-profit activity which renders services primarily to other commercial, institutional, or industrial enterprises, or which services and repairs appliances and machines used in homes and business.

<u>Business</u>, <u>Wholesale</u>: Business establishments that generally sell commodities in large quantities or by the piece to retailers, jobbers, other wholesale establishments, or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product or for use by business service.

BZA: Board of Zoning Appeals.

<u>CABO Code</u>: Building codes established by the Council of American Building Officials, edition as adopted by Council.

<u>Canopy</u>: A structure constructed of rigid materials including, but not limited to, metal, wood, concrete, plastic, canvas or glass which is attached to and supported by a building or by columns, poles or braces extended to the ground.

<u>Cemetery</u>: Land used or intended to be used for the burial of the human or animal dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

<u>Certificate of Compliance (Certificate of Occupancy)</u>: A certificate issued by the Zoning Inspector confirming that the requirements of this Code have been met and the building can be occupied.

<u>Channel</u>: A natural or artificial watercourse of perceptible extent, with bed and banks to confine and conduct continuously or periodically flowing water.

Charitable Organization: See Tax Exempt Organization.

Cinema: Commercial facility used for showing and viewing motion pictures.

<u>Clinic</u>: A clinic is a place which provides a range of services by a group of licensed practitioners, their associate(s) and assistant(s), including the care, diagnosis and treatment of those who are sick, ailing, infirm, and/or injured persons, and includes the care of those who are in need of medical, surgical or dental attention, but who are not provided with board or room nor kept overnight on the premises.

<u>Club</u>: A building or portion thereof, or premises operated for a social, literary, political, educational, or recreational purpose primarily for the exclusive use of members and their guests.

Commission: Planning and Zoning Commission.

Comprehensive Plan: A plan, or any portion thereof, which establishes the general goals, objectives, and policies of the community, is recommended by the Planning and Zoning Commission and adopted by the City Council. The plan shows the general location and extent of present and proposed physical facilities and open spaces including housing, industrial and commercial uses, major streets, parks, schools, and other community facilities.

<u>Conditional Use</u>: An uncommon or infrequent use permitted within a zoning district other than a principally permitted use, subject to compliance with certain standards or explicit conditions, following guidelines established by the Commission.

<u>Conditional Use Permit</u>: A permit issued by the Zoning Inspector upon approval by the BZA to allow a use other than a principally permitted use to be established within the district.

<u>Convenience Store</u>: Commercial uses catering primarily to passing traffic which originates outside of the surrounding neighborhood. Such uses generally require location on or near major thoroughfares and/or their intersections.

Corner Lot: See Lot Types.

Court: An open space wholly or partly surrounded by structures.

Cul-de-Sac: See Thoroughfare. (Ord. 2001-3397. Passed 8-20-01.)

<u>Cultivator:</u> An individual, corporation, business association or other business entity that grows, harvests, packages, and/or transports medical marijuana as authorized by Chapter 3796 of the Ohio Revised Code. (Ord. 2017-4291. Passed 7-24-17.)

<u>Culvert</u>: A covered conduit used for drainage.

Daycare Facility: A facility for the care of babies, children, persons, or elderly people.

Dead-End Street: See Thoroughfare. (Ord. 2001-3397. Passed 8-20-01.)

<u>Deck:</u> A platform, either open or partially located under roof, that is supported by pillars or posts. A deck may be either freestanding or attached to the principal structure. (Ord. 2016-4267. Passed 10-3-16.)

<u>Deed</u>: An instrument conveying or transferring an interest in real property from one person or entity to another. (Ord. 2001-3397. Passed 8-20-01.)

<u>Demolition:</u> The intentional act of pulling down, destroying, dismantling, defacing, removing or razing a building or structure, or commencing the work of a total, substantial, or partial demolition with the intent of completing the same. (Ord. 2017-4288. Passed 7-24-17.)

Density: A unit of measurement; and number of dwelling units per acre of land:

1. Gross Density: The number of dwelling units per acre of the total land to be developed.

2. Net Density: The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

<u>Disabled Vehicles</u>: Any vehicle that is extensively damaged, such damage including but not limited to any of the following: missing wheels, tires, motor, transmission, and/or in a state of not being operable.

<u>Discount Stores</u>: A retail store offering merchandise at lower-than-usual prices. (Ord. 2001-3397. Passed 8-20-01.)

<u>Dispensary:</u> An individual, corporation, business association or other business entity that sells medical marijuana as authorized by Chapter 3796 of the Ohio Revised Code. (Ord. 2017-4291. Passed 7-24-17.)

<u>Drive Through Facilities</u>: A designated place, in conjunction with a retail or service establishment, from which persons can conduct the major portion of their business without leaving their motor vehicle.

<u>Driveway</u>: That portion of land designated by the owner for ingress and egress to said land.

<u>Dwelling</u>: Dwelling is any building which contains one or more "Dwelling Units" used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or which are occupied for living purposes, but not including a cabin, hotel, motel, rooming house, or other such accommodation used for transient occupancy.

<u>Dwelling</u>, <u>Multi-Family</u>: A dwelling consisting of three or more dwelling units, including condominiums, with varying arrangements of entrances and common walls.

<u>Dwelling</u>, <u>Rooming Housing</u> (<u>Boarding House</u>, <u>Dormitory</u>): A dwelling or part thereof, other than a hotel, motel, or restaurant where meals and/or lodging are provided for compensation, for three or more unrelated persons where no cooking or dining facilities are provided in the individual rooms.

<u>Dwelling</u>, <u>Single-Family</u>: A dwelling consisting of a single dwelling unit which is separated from other dwelling units by open space.

<u>Dwelling</u>, <u>Two-Family</u>: A dwelling consisting of two dwelling units which may be either attached by a common wall or one above the other, with each unit having a separate or combined entrance or entrances.

<u>Dwelling Unit</u>: A single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

<u>Easement</u>: Authorization by a property owner for another organization or individual to use a designated part of his or her property for a specified purpose.

<u>Essential Services</u>: The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission, or distribution systems, collection, communication, supply or disposal systems or sites, including poles, wires, mains, drains, sewers, pipes, traffic signals, hydrants, or other similar equipment, and related accessories which are reasonable and necessary for the furnishing

of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings other than structures specifically for housing the essential services named herein or similar to those named herein.

<u>Family</u>: One or more persons occupying a single dwelling unit, provided that no such family shall contain more than three persons unless all members are related by blood, adoption, or marriage.

<u>Farm Market</u>: Markets from which fifty percent (50%) or more of the gross income received from the market is derived from produce raised or grown upon farms owned or operated by the market operation in a normal crop year.

Flood Plain: An area of land susceptible to being inundated by flood waters from any source.

<u>Flood, Regional</u>: Large floods which have previously occurred or which may be expected to occur in a particular flood plain because of certain physical characteristics. The regional flood generally has an average frequency of the 100 year recurrence interval flood.

<u>Flood, Regulatory Base</u>: Flood having a 1 percent chance of being equaled or exceeded in any given year.

<u>Flood, Regulatory Base Discharge</u>: The rate of flow produced by the regulatory base flood measured in cubic feet per second (CFS).

<u>Floodway</u>: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

<u>Flood Fringe</u>: That portion of the flood plain, excluding the floodway, based on the total area inundated during the regulatory base flood plus 25% of the regulatory base flood discharge.

Floor Area (Gross) of a Residential Building: The sum of the gross horizontal area of the floors of a residential building, excluding basement floor areas not devoted to residential use, unfinished attic spaces, terraces, breezeways, open porches, uncovered steps, or garages. All dimensions shall be measured between interior faces of walls.

<u>Floor Area of a Non-Residential Building</u>: The interior floor area of the specified use excluding stairs, washrooms, elevator shafts, maintenance shafts and rooms, and display windows.

<u>Food Processing</u>: The preparation, storage, or processing of food products, excluding any consumption on premises. Examples of these activities include bakeries, dairies, canneries, and other similar businesses.

Frontage: That side of a lot abutting on a street; the front lot line.

<u>Garage</u>, <u>Private</u>: An accessory building for parking or temporary storage of motor-driven vehicles, travel trailers and/or boats of the occupants of the premises.

Garage, Public: A principal or accessory building other than private garages, used strictly for parking or temporary storage of passenger vehicles.

<u>Garage</u>, <u>Service Station</u>: Buildings and premises for retail sales of vehicular fuels, oil, grease, batteries, tires, and motor vehicle accessories. The following sales or services represent those typically available at a service station:

- 1. Automotive repair.
- 2. Tire servicing and repair, but not recapping or regrooving.
- 3. Washing, polishing, and cleaning of the vehicle.
- 4. Sales of beverages, packaged food, tobacco, and similar convenience goods for service station customers, as accessory and incidental to principal operations.
- 5. Provisions of road maps and other informational material to customers.
- 6. Provision of restroom facilities to customers.

Uses permissible at retail fuel dispensing facilities do not include major automotive body work, painting, storage of autos not in operational condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in retail fuel dispensing facilities.

Governmental Buildings: Buildings owned or operated by federal, state or local governments or departments and/or subdivisions thereof, that are used for administrative, ministerial, public service, safety, health, public utility or recreational purposes.

<u>Grocery Store</u>: A retail store selling staple foodstuffs and household supplies.

<u>Home Occupation</u>: Any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling unit.

<u>Hospital</u>: An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices and staff residences.

<u>Hotel</u>: A facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

Household: See Family.

<u>Institution</u>: Building and/or land designed to aid individuals in need of mental, therapeutic, rehabilitative counseling or other correctional services.

<u>Junk Motor Vehicle</u>: A motor vehicle that is three years old or older, and is apparently inoperable, and is extensively damaged, including but not limited to missing wheels, tires, engine, or transmission. (ORC 505.173)

<u>Junk Yard</u>: Means any area, lot, land, parcel, building, structure or part thereof, or open area, where waste (excluding municipal waste), discarded or salvaged materials are stored, bought, sold, exchanged, abandoned, processed, baled, packed, disassembled or handled, including, but not limited to: wastepaper, rags, scrap metal or other scrap or discarded goods, materials, machinery, auto wrecking yards, house-wrecking yards, used lumber yards and places or yards for storage and equipment, as well as any structures or buildings used in connection therewith, or where more than two (2) junk or nuisance motor vehicles, or parts thereof, per Section 303.10 are stored even when concealed by fence or opaque hedges. Junk Yards shall be licensed per City Codified Ordinances Chapter 723. (Ord. 2011-4032. Passed 9-6-11.)

Kennel (private): Any lot or premises on which five or more domesticated dogs or cats, of more than four months of age, are housed, groomed, bred, boarded, trained, or sold.

Kennel (commercial): Any lot or premises on which five or more domesticated dogs or cats, of more than four months of age, are housed, groomed, bred, boarded, trained, or sold and where pet care products, equipment, merchandise, and/or food is sold.

<u>Legal Description</u>: A description of real estate by metes and bounds or by lot numbers of a plat which has been recorded in the office of the County Recorder.

<u>Licking County Planning Commission</u>: A Commission established pursuant to Ohio R.C. Chapter 713. Also referred to as "LCPC."

<u>Loading Space</u>, <u>Off-Street</u>: Space logically and conveniently located within the main building or on the same lot for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space. All off-street loading spaces shall be located totally outside of any street or alley right-of-way. (Ord. 2001-3397. Passed 8-20-01.)

<u>Local Provisional License</u>: A temporary license issued by the City of Pataskala to a medical marijuana entity that establishes conditions that must be met by the medical marijuana entity before a local operating license is issued.

<u>Local Operating License</u>: A license issued by the City of Pataskala to a medical marijuana entity. A medical marijuana entity shall not operate within the City of Pataskala without a valid local operating license. (Ord. 2017-4291. Passed 7-24-17.)

Location Map: See Vicinity Map.

<u>Lot</u>: A parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot may consist of one of the following:

- 1. A single lot of record.
- 2. A portion of a lot of record.
- 3. A combination of complete lots of record, or a combination of complete lots of record and portions of lots of record.

<u>Lot Coverage</u>: The ratio of exterior-walled area of all buildings at grade and pavement areas on a lot to the horizontally projected area of the lot, expressed as a percentage.

Lot Frontage: See Frontage.

Lot Line: The line which defines the boundaries of the lot as follows:

1. Front: The lot line separating an interior lot from the street right-of-way upon which it abuts or the shortest lot line of a corner lot which abuts upon a street right-of-way. Unless the context clearly indicates the contrary, it shall be construed as synonymous with street right-of-way line.

- Rear: The lot line which is opposite and most distant from the front lot line. In such a lot where the side lot lines meet to the rear of the lot, or where the rear lot line is less than ten (10) feet, the minimum rear yard shall be computed from the point of intersection of the side lot lines on an imaginary line that is at equal angles from each side lot line. In the case of a corner lot, the rear lot line is opposite and furthest removed from the front lot line of least dimension.
- 3. Side: The lot line running from the front lot line to the rear lot line. This line is also the line dividing two (2) interior lots.

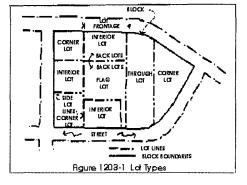
<u>Lot</u>, <u>Minimum Area</u>: The smallest lot area established by the Zoning Code on which a use or structure may be located in a particular zoning district.

<u>Lot Split</u>: Any division of land into 2 to 5 parcels for the purpose, whether immediate or future, of the transfer of ownership, sale, or development.

<u>Lot of Record</u>: A lot which is part of a subdivision, or a lot or parcel described by metes and bounds, the description of which has been so recorded in the office of the County Recorder.

<u>Lot Types</u>: Terminology used in this Zoning Code with reference to corner lots, interior lots and through lots is as follows (see Figure 1203-1):

- 1. Corner Lot: A lot located at the intersection of two or more streets. A lot abutting one curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost points of the lot meet at an interior angle of less than 135 degrees.
- 2. Interior Lot: A lot other than a corner with only one frontage on a street.
- 3. Through Lot: A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.



- 4. Reversed Frontage Lot: A lot on which frontage is at right angles to the general pattern in the area. A reversed frontage lot may also be a corner lot.
- 5. Flag Lot: A large lot not meeting minimum frontage requirements and where access to the public road is by a narrow right-of-way or driveway.

Maintenance and Storage Facilities: Land, buildings, and structures for commercial purposes devoted primarily to the maintenance and storage of construction equipment and material.

<u>Major Thoroughfare Plan</u>: The portion of the Comprehensive Plan indicating the general location recommended for arterial, collector, and local thoroughfares within the appropriate jurisdiction.

Manufactured Home: Any non-self-propelled vehicle transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. (ORC 4501.01)

Manufactured Home Park: Any tract of land upon which three or more manufactured homes used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots is not a manufactured home park even though three or more manufactured homes are parked thereon if the roadways are dedicated to the local government authority. Manufactured home park does not include any tract of land used solely for the storage or display for sale of manufactured homes or solely as a temporary park-camp. (ORC 3733.01)

Manufactured Home and Travel Trailer Sales: The sale or rental of new and used manufactured homes or travel trailers, but not including repair work except incidental warranty repair of same, to be displayed and sold on the premises.

Manufactured Housing: A building designed for residential use which is:

- 1. Mass-produced in a factory;
- 2. Designed and constructed for transport to a site for installation and use when connected to the required utilities; and
- 3. Either an independent, individual building or module for combination with other elements to form a building on the site.

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 lubricating oils, plastics, resins, or liquors. (Ord. 2001-3397. Passed 8-20-01.)

Marijuana: All parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of plant of that type; and every compound, manufacture, salt, derivative, mixture or preparation of a plant of that type or of its seeds or resin. Marijuana does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination.

<u>Medical Marijuana</u>: Marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose.

Medical Marijuana Entity: A medical marijuana cultivator or processor, as authorized by Chapter 3796 of the Ohio Revised Code. (Ord. 2017-4291. Passed 7-24-17.)

Mini-Storage Facility: A principally commercial structure, open to the public, for the use of temporary, enclosed self-storage of personal belongings, furniture, household goods, boats, trailers, or automobiles.

Mini-Warehouse: See Mini-Storage Facility.

<u>Motel or Motor Hotel</u>: An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

Nonconformities: A building, structure, use of land, or parcel of real estate existing at the time of enactment of this Zoning Code, and which does not conform to the regulations of the zoning district in which it is situated.

Nonferrous Foundries: Casting of materials not containing or derived from iron.

Non-profit Organization: See Tax Exempt Organization.

<u>Nuisance</u>: Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses, including but not limited to: odors, air and water pollution, noise, vibration, dust, fumes, smoke, radiation, light, glare, fire hazard, electromagnetic radiation, erosion, and congestion.

<u>Nursing Home</u>: A long-term facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged, or a governmental medical institution.

<u>Nursery</u>, <u>Plant Materials</u>: Land, building, structure, or combination thereof for the storage, cultivation or transplanting of live trees, shrubs, or plants offered for sale on the premises including products used for gardening or landscaping.

Open Space: Undeveloped land of the subdivided property providing visual expanses and recreational areas clear of obstructions other than natural vegetation, or structures directly related to the use and enjoyment of these spaces. Open spaces may include natural habitats, places for neighborhood recreation, and pedestrian corridors. Streets, parking areas, and structures for habitation are not considered open space.

<u>Outlet Stores</u>: Stores which sell damaged goods, seconds, or overstock merchandise. Such merchandise is typically bought in bulk and sold at discount prices.

Overlay Districts: Zoning districts which extend on top of more than one base zoning district and are intended to protect certain critical resources and features, or further promote public health, safety, comfort, and welfare. When the standards of the base zoning district conflict with that of the overlay zone, the more restrictive standard shall apply.

<u>Parking Area</u>: An open area other than a street, drive, or alley used or intended to be used for the storage of motor vehicles, with or without a fee.

<u>Parking Space, Off-Street</u>: An area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but that is located totally outside of any street or alley right-of-way. (Ord. 2001-3397. Passed 8-20-01.)

<u>Patio:</u> A hard surfaced area on the ground, typically adjoining the principal structure, constructed of concrete, bricks, tiles, pavers or similar materials. (Ord. 2016-4267. Passed 10-3-16.)

<u>Performance Guarantee</u>: An agreement from one party (usually a developer) to another (usually the City) to ensure that certain improvements are or will be built as shown in engineering or other drawings and specifications within a certain time period or to certain standards.

<u>Permitted Use</u>: Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

<u>Personal Services</u>: Any for-profit enterprise which primarily offers services to the general public. (Ord. 2001-3397. Passed 8-20-01.)

<u>Planned Development</u>: An area of land in which a variety of harmonious uses is designed through plans agreed upon between the developer(s) and the City of a minimum number of contiguous or noncontiguous size, planned, developed, operated, and maintained as a single entity and containing one or more structures to accommodate retail, service, commercial, industrial, office, residential uses or a combination of such uses, with appurtenant common areas and accessory uses, customary and incidental to the predominant uses. Planned Development incorporates more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under these regulations. The procedures for approval of such development contain requirements in addition to those of the standard subdivision, such as building design principles, and landscaping plans. (Ord. 2010-3962. Passed 3-8-10.)

<u>Porch:</u> A fully roofed platform, which may be enclosed by screens, attached to the principal structure with direct access to or from it. (Ord. 2016-4267. Passed 10-3-16.)

<u>Principal Structure</u>: The structure in which is conducted the main or principal use of the lot on which the structure is located. (Ord. 2006-3733. Passed 12-18-06.)

<u>Processor:</u> An individual, corporation, business association or other business entity that manufactures medical marijuana products as authorized by Chapter 3796 of the Ohio Revised Code. (Ord. 2017-4291. Passed 7-24-17.)

<u>Professional Activities</u>: The use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, accountants, architects, and engineers, and similar professions

<u>Prohibited Facility:</u> A school, church, public library, public playground, or public park. (Ord. 2017-4291. Passed 7-24-17.)

<u>Public Areas</u>: Parks, playgrounds, trails, paths, and other recreational areas and open spaces; scenic and historic sites; schools and other buildings and structures; and other places where the public is directly or indirectly invited to visit or permitted to congregate.

Public Service: Relating to the health, safety, and welfare of the population.

<u>Public Utility</u>: A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare.

<u>Public Utility Facility</u>: Building, structure, and facility, including generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers valves, and all buildings and structures relating to the furnishing of utility services, such as electric, gas, telephone, water, sewer, and public transit, to the public.

<u>Public Way</u>: An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk, bicycle path, or other ways in which the general public or a public entity has a right, or which is dedicated, whether improved or not.

<u>Recreation Facilities</u>: Public or private facilities that may be classified as either "extensive" or "intensive" depending upon the scope of services offered and the extent of use. Extensive facilities generally require and utilize considerable areas of land and include, but need not be limited to country clubs, golf courses, and hunting, fishing, and riding clubs and parks. Intensive facilities generally require less land (used more intensively) and include, but need not be limited to, miniature golf courses, amusement parks, stadiums, swimming pools, and bowling alleys.

Research Facilities: Research, testing, and related facilities including operation of prototype, pilot plant or semi-works processes which are no larger than normal version of process, exposure of product to weather and all other tests relating to code and other product performance requirements, and fabrication or assembly operations which process materials or equipment for market development and other uses.

Residence: See Dwelling.

<u>Restaurant</u>: A business establishment where food and beverages are prepared, served, and consumed primarily on the premises.

<u>Retail Store</u>: A store primarily engaged in selling household merchandise and in rendering services incidental to the sale of goods.

<u>Right-of-Way</u>: A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, bikeway, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

Roadside Stand: See Farm Market.

Salvage Yard: See Junk Yard.

<u>Screening</u>: A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

<u>Seating</u>: The number of seating units installed or indicated, or each 24 lineal inches of benches, pews, or space for loose chairs.

Self-Storage Facility: See Mini-Storage Facility.

<u>Setback Line</u>: A line generally parallel with and measured from the lot line, defining the limits of a yard in which no building or structure may be located above ground, except as may be provided in this Zoning Code.

<u>Sewers</u>, <u>Central or Group</u>: An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community, or region.

<u>Sidewalk</u>: A handicapped-accessible portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.

Sign-Related Definitions.

<u>Sign</u>: Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. See Figure 210-2.

- 1. Sign, Awning: A sign which is suspended from, attached to, supported from or forms a part of an awning.
- 2. Sign, Illuminated: Any sign illuminated by electricity, gas, or other artificial light including reflecting or phosphorescent light.
- 3. Sign Lighting Device: Any light, string of lights, or group of lights located or arranged so as to cast illumination on a sign.
- 4. Sign, On-Premises: Any sign related to a business or profession conducted, or to a commodity or service sold or offered upon the premises where such sign is located
- 5. Sign, Off-Premises: Any sign unrelated to the activity conducted on the premises where the sign is located.
- 6. Sign, Projecting: Any sign which projects from the exterior of a building.
- 7. Sign, Swinging: A sign installed on an arm mast or spar that is not, in addition, permanently fastened to an adjacent wall or an upright pole.

<u>Banner</u>: Any sign, painted, printed or otherwise displayed on cloth, plastic film or similar material.

<u>Business Sign District</u>: Shall include the Business and Manufacturing districts in the City of Pataskala and shall include those lots in the Professional-Research Office Districts with frontage on State Routes 16 and 310.

<u>Directional Sign</u>: A sign limited to directional or guiding messages, principally for pedestrian or vehicular traffic, such as "entrance," "exit," or "one-way."

<u>Free-Standing Sign</u>: Any non-movable sign not attached or part of any building, but separate and affixed in or upon the ground.

<u>General Sign District</u>: Shall include the Professional-Research-Office (except for those lots included in the Business Sign District), AG, and R zoning districts in the City of Pataskala.

<u>Permanent Subdivision Identification Sign</u>: Signage features specifically relating to the denotation of a major entrance or entrances to a subdivision.

<u>Portable Sign</u>: A sign designed to be movable and not attached to the ground, a building, a structure or another sign.

<u>Projecting Sign</u>: A sign attached to the building wall or structure and which extends horizontally more than fifteen (15) inches from the plane of such wall, or a sign which is perpendicular to the face of such wall or structure.

Sign Structure: The supports, uprights, bracing and framework for the sign.

<u>Temporary Sign</u>: A sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a short period of time.

<u>Wall Sign</u>: A sign that is painted on, attached to, or projected on the outside wall of a building with the face of the sign in the plane parallel to such wall, and not extending more than fifteen (15) inches from the face of such wall.

<u>Window Sign</u>: A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within two (2) feet of the window, but not including graphics in connection with customary window display of products.

(End of Sign-Related Definitions)

<u>Similar Use</u>: A use that has the same characteristics as the specifically cited uses in terms of the following: trip generation and type of traffic, parking and circulation, utility demands, environmental impacts, physical space needs, and clientele. The use may be found analogous and added to the classification according to the procedures and requirements of this Zoning Code.

<u>Stable</u>, <u>Commercial</u>: A building or structure, including surrounding fenced lands, in which domestic animals are sheltered and fed, which is open to the public for let, hire, use, or board on a commercial basis and for compensation.

<u>Stable, Private</u>: A structure or building, including surrounding fenced lands, in which domestic animals are sheltered and fed, and are owned by the occupant or owner of the premises which is not open to the general public.

<u>Story</u>: That portion of a building included between the surface of any floor and the surface of the floor next above, except that the topmost story shall be that habitable portion of a building included between the surface of the topmost floor and ceiling or roof above.

<u>Stream</u>: Any channel, meandering or modified, that has a bed and banks in which an ordinary high water mark is present and in which water flows on a periodic or perennial basis. Examples of ordinary high water marks include, but are not limited to, a clear, natural line impressed upon the bank, shelving changes in the character of the soil, destruction of terrestrial vegetation, and the presence of natural litter and debris.

Street: See Thoroughfare.

<u>Structure</u>: Anything constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground.

Structural Alteration: See Alterations, Structural.

<u>Supermarkets</u>: Large scale retail establishments which may sell groceries and services. The facilities may also serve as a department store and/or restaurant. Supermarkets may be open 24 hours a day and generate high volumes of traffic. Strong access management is crucial as well as proper internal traffic circulation.

<u>Swimming Pool</u>: A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen inches below the level of the surrounding land, or an above-ground pool, having a depth of more than thirty inches, designed, used, and maintained for swimming and bathing. (See Chapter 1297)

<u>Tax Exempt Organization</u>: Any organization operating under the rules and regulations of Section 501(C) of the Internal Revenue Service Code.

(Ord. 2006-3733. Passed 12-18-06.)

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<u>Testing Laboratory:</u> An individual, corporation, business association or other business entity that conducts medical and scientific research on marijuana as authorized by Chapter 3796 of the Ohio Revised Code. (Ord. 2017-4291. Passed 7-24-17.)

Definitions

<u>Theaters</u>: Theaters or playhouses designed and used exclusively for theatrical productions, ballets, operas, or other live entertainment productions.

<u>Thoroughfare</u>, <u>Street</u>, <u>or Road</u>: The full width within the right of way bounding every public way, with a part thereof to be used for vehicular traffic and designated as follows:

1. Alley: A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

2. Arterial Street: Arterial are major thoroughfares designed to carry traffic between municipalities and other activity centers and to provide connections with major state and interstate roadways. Typically, existing state routes will be classified as arterial.

- 3. Collector Street: Collectors distribute traffic between lower order residential streets and higher order arterial. Their purpose is primarily to promote free traffic flow, and direct access for adjoining lots should be limited where possible. Collectors should not be used for on street parking, and may provide linkages to adjoining developments to improve circulation. Typically, existing County roads will be classified as collectors and, a new collector will be required when a residential subdivision reaches 150 dwelling units, or an equivalent traffic generation.
- 4. Cul-de-Sac: A street that has a single means of access and that terminates in a vehicular turnaround.
- 5. Dead-End Street: A street having only one common ingress and egress for vehicular traffic.
- 6. Local Residential Street: The lowest order streets providing access to residential lots and carrying only the traffic generated by adjoining residential land uses.
- 7. Loop Street: A local street that has its only ingress and egress at two points on the same street.
- 8. Marginal Access Street: A local or collector street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets. (Also called Frontage Street).
- 9. Subcollector: A street designed to provide access to adjoining property and carry traffic between local residential streets and cul-de-sacs and higher order collectors and arterial.

Through Lot: See Lot Types.

<u>Truck Stop</u>: A facility generally providing service to motor vehicles and/or semitrailer or other types of vehicles as defined in Ohio R.C. 4501.01. The service provided by such facility may include but not limited to, gasoline, diesel fuel, repair service, and restaurant facilities. Generally these are associated with interchange areas along the major limited access highways and to provide a service to the motoring public.

Transportation, Director of: The Director of the Ohio Department of Transportation.

<u>Use</u>: The specific purposes of which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained.

(Ord. 2006-3733. Passed 12-18-06.)

<u>Valid:</u> Not expired, suspended or revoked. (Ord. 2017-4291. Passed 7-24-17.)

<u>Variance</u>: A minor departure or exception from the strict rule or literal enforcement of the Zoning Code.

<u>Vending Machine</u>: Any stand alone coin operated apparatus with the specific purpose of providing a consumable good to a customer. Specific examples might include a soda machine, a newspaper machine, or a snack machine. Coin operated apparatus providing a utility (payphone) or nondurable good or service (vacuum or air compressor) would not fit the definition of a vending machine for purposes of this Code.

<u>Veterinary Animal Hospital or Clinic</u>: A place used for the care of animals in need of medical or surgical attention. The boarding of animals is limited to short-term care incidental to the hospital or use.

<u>Vicinity Map</u>: A drawing located on the plat which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the general area in order to better locate and orient the area in question.

Walkway: A public way for pedestrian use.

<u>Watercourse</u>: Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed, and banks and includes any area adjacent thereto subject to inundation by reason of overflow or floodwater.

<u>Wetlands</u>: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Wholesale Store: An establishment or place of business primarily engaged in selling wholesale goods directly to the public.

<u>Yard</u>: A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from three (3) feet above the general ground level of the graded lot upward.

- 1. Yard, Front: A yard extending between side lot lines across the front of a lot and from the lot line to the front of the primary structure.
- 2. Yard, Rear: A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the primary structure.
- 3. Yard, Side: A yard extending from the primary structure to the side lot line on both sides of the primary structure between the lines establishing the front and rear vards.

Zoning District: A portion of the territory of the City within which certain uniform regulations and requirements or various combinations thereof apply.

<u>Zoning Inspector</u>: The authorized representative employed by the City for the enforcement of the Zoning Code.

Zoning Map: The map or maps of the City, together with all zoning amendments subsequently adopted showing official zoning boundaries.

Zoning Permit: A document issued by the Zoning Inspector in accordance with this Zoning Code authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses. (Ord. 2006-3733. Passed 12-18-06.)

CHAPTER 1205 Measurements

1205.01	Purpose.	1205.11	Measuring areas with
1205.02	Fractions.		squares of specified
1205.03	Measuring distances.		dimensions.
1205.04	Measuring distances on maps.	1205.12	Setback averaging.
1205.05	Measuring height.	1205.13	Measuring tree diameter.
1205.06	Determining average slope.	1205.14	Manufactured home space
1205.07	Determining the area of the		calculations.
	facade of a building.	1205.15	Sign measurements.
1205.08	Determining the garage		
	wall area.		
1205.09	Measuring lot widths.		
1205.10	Measuring lot depths.		

CROSS REFERENCES

Rules of construction - see ADM. 101.03 Conflicting provisions - see ADM. 101.06

1205.01 PURPOSE.

This chapter explains how measurements are made in the Zoning Code.

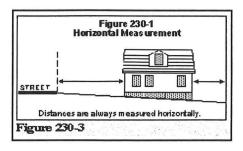
1205.02 FRACTIONS.

When calculations result in fractions the results will be rounded as follows:

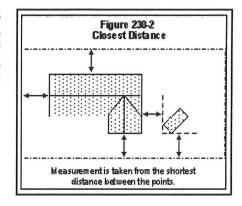
- A. <u>Minimum requirements.</u> When a regulation is expressed in terms of a minimum requirement, any fractional result will be rounded up to the next consecutive whole number. For example, if a minimum requirement of one tree for every 30 feet is applied to a 50 foot strip, the resulting fraction of 1.67 is rounded up to 2 required trees.
- B. <u>Maximum limits.</u> When a regulation is expressed in terms of maximum limits, any fractional result will be rounded down to the next lower whole number. For example, if a maximum limit of one dwelling unit for every 7,000 square feet is applied to an 18,000 square foot site, the resulting fraction of 2.57 is rounded down to 2 allowed dwelling units.

1205.03 MEASURING DISTANCES.

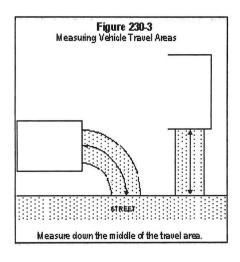
A. Distances are measured horizontally. When determining distances for setbacks and structure dimensions, all distances are measured along a horizontal plane from the appropriate property line, edge of building, structure, storage area, parking area, or other object. These distances are not measured by following the topography of the land. See Figure 230-1.

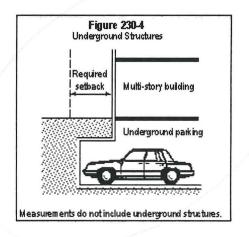


B. Measurements are shortest distance. When measuring a required distance, such as the minimum distance between a structure and a lot line, the measurement is made at the shortest distance between the two objects. See Figure 230-2. Exceptions are stated in Subsection C, D, and E.



C. Measurements of vehicle travel areas. Measurement of a minimum travel distance for vehicles, such as garage entrance setbacks and stacking lane distances, is measured down the center of the vehicle travel area. For example, curving driveways and travel lanes are measured along the arc of the driveway or traffic lane. See Figure 230-3.





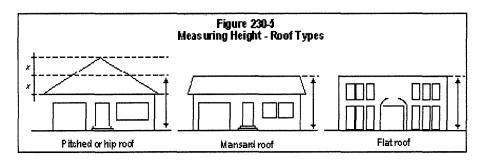
- D. Measurements involving a structure. Measurements involving a structure are made to the closest wall of the structure. Chimneys, eaves, and bay windows not more than 2 feet in depth and/or up to 12 feet in length, are not included in the measurement. Other items, such as covered porches and entrances, are included in the measurement. See Figure 230-2 above, and the base zone chapters.
- E. Underground structures. Structures or portions of structures that are entirely underground are not included in measuring required distances. See Figure 230-4.

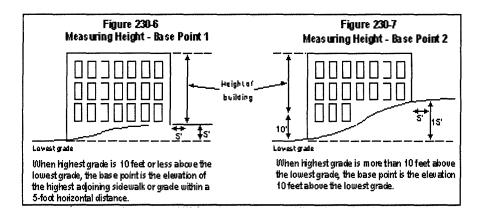
1205.04 MEASURING DISTANCES ON MAPS.

Zoning district boundaries that are shown crossing lots are usually based on a topographic feature or a set measurement from a property line or topographic feature, such as the top of slope, middle of stream, 25 feet from top of bank, or 30 feet from property line. When zoning district boundaries are shown crossing properties with no clear indication of the basis for the line, exact distances are to be determined by scaling the distances from the Official Zoning Maps, using the center of the zoning line.

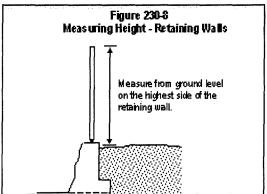
1205.05 MEASURING HEIGHT.

- A. Measuring building height. Height of buildings is generally measured as provided in the Council of American Building Officials (CABO) Code. The height of buildings is the vertical distance above the base point described in Paragraphs 1 or 2 below. The base point used is the method that yields the greater height of building. For a flat roof, the measurement is made to the top of the parapet, or if there is no parapet, to the highest point of the roof. The measurement is made to the deck line of a mansard roof, or to the average height of the highest gable of a pitched or hipped roof that has a roof pitch of 12/12 or less. For pitched or hipped roofs with a pitch steeper than 12/12, the measurement is to the highest point. For other roof shapes such as domed, vaulted, or pyramidal shapes, the measurement is to the highest point. See Figure 230-5. The height of a stepped or terraced building is the maximum height of any segment of the building.
- 1. Base point 1. Base point 1 is the elevation of the highest adjoining sidewalk or ground surface within a 5 foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above lowest grade. See Figure 230-6.





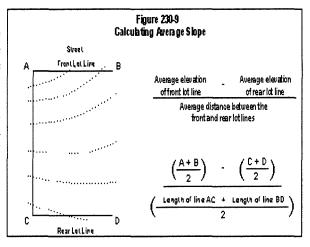
- 2. Base point 2. Base point 2 is the elevation that is 10 feet higher than the lowest grade when the sidewalk or ground surface described in Paragraph A.1. above, is more than 10 feet above lowest grade. See Figure 230-7.
- B. Measuring height of other structures. The height of other structures such as flag poles and fences is the vertical distance from the ground level immediately under the structure to the top of a structure, excluding exempted portions. When chimneys and other objects are allowed to exceed the base height of the zoning district by a set amount, that set amount is measured to the top of these objects. Special measurement provisions are also provided below.
 - 1. Measuring height of retaining walls and fences. Retaining walls and fences on top of retaining walls are measured from the ground level on the higher side of the retaining wall. See Figure 230-8.
 - 2. Measuring height of decks. Deck height is determined by measuring from the ground to the top of the floor of the deck if there is no rail, or from the ground to the top of the rails for all other situations.



C. Exceptions to height measurements. The height limitations do not apply to ventilators and chimneys except where the height of such structures will constitute a hazard to the safe landing and take-off of aircraft at an established airport.

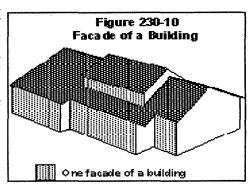
1205.06 DETERMINING AVERAGE SLOPE.

Average slope used. When calculating the slope of a lot, an average slope is used based on the elevations at the corners of the lot. The average slope of a lot is calculated by subtracting the average elevation of the uphill lot line and the average elevation of the downhill lot line and dividing the sum by the average distance between the two lot lines. The average elevation of the uphill or downhill lot line is calculated by adding the elevations at the ends of the lot line and dividing by two. See Figure 230-9.



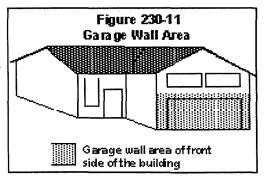
1205.07 DETERMINING THE AREA OF THE FACADE OF A BUILDING.

The area of a specific facade of a building is determined by adding the square footage of surface area of each section of wall visible from that perspective. For buildings with more than one wall along one facade (for example, rooms jutting out from the main building or a building where each floor is set back from the floor below), all of the walls are included in the total area. The total area does not include any roof area. See Figure 230-10.



1205.08 DETERMINING THE GARAGE WALL AREA.

The garage wall area is determined by calculating the area of the specific side of a structure that is backed by garage space. The garage wall area is not limited to the area of the garage door; it includes all the area on the specified side of a structure between the ceiling, floor, and walls of the garage. See Figure 230-11.

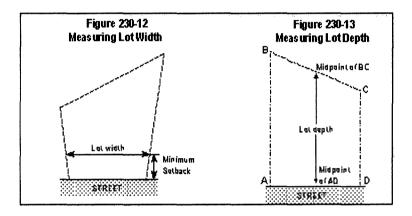


1205.09 MEASURING LOT WIDTHS.

Lot widths are measured between the side lines of a lot at right angles to the depth along a straight line parallel to the front lot line at the minimum required building setback line. See Figure 230-12.

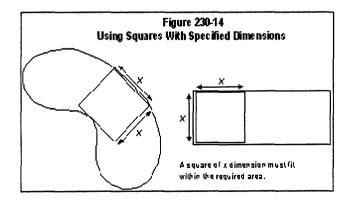
1205.10 MEASURING LOT DEPTHS.

Lot depths are measured from the midpoints of opposite lot lines. See Figure 230-13.



1205.11 MEASURING AREAS WITH SQUARES OF SPECIFIED DIMENSIONS.

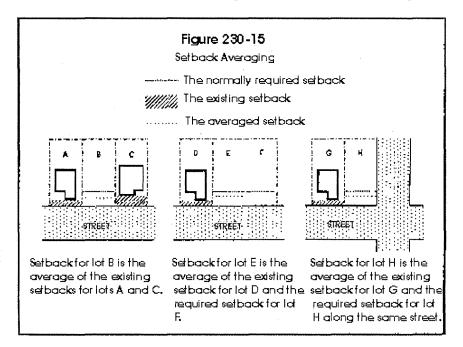
Required areas (for example, required usable outdoor areas in residential zones and the industrial zone lot standards) must be of a sufficient size and configuration so that a square measuring X by X can be placed totally within the required area. The dimensions of the square are stated in the base zone chapters. See Figure 230-14.



1205.12 SETBACK AVERAGING.

Certain regulations allow for setbacks to be averaged. In these situations the required setback may be reduced to the average of the existing setbacks of the lots that are on both sides of the site. See Figure 230-15. The following rules apply in calculating the average:

- A. The setbacks used for the calculations must be the same type of setback that is being averaged and must be in the same zoning district.
- B. Only the setbacks on the lots that abut each side of the site and are on the same street may be used. Setbacks across the street or along a different street may not be used.
- C. When one abutting lot is vacant or if the lot is a corner lot, then the average is of the setback of the nonvacant lot and the required setback for the zoning district.



1205.13 MEASURING TREE DIAMETER.

Tree diameter is measured at a height of 5 feet above the ground. Trees on slopes are measured from the ground level on the lower side of the tree. If the tree splits into multiple trunks below 5 feet, the trunk is measured at its most narrow point below the split.

1205.14 MANUFACTURED HOME SPACE CALCULATIONS.

Calculations used to determine the number of square feet in a structure are based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows.

1205.15 SIGN MEASUREMENTS.

The following principles shall control the computation of sign area and sign height.

- A. <u>Computation of Area of Individual Signs.</u> The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets Zoning Code regulations and is clearly incidental to the display itself.
 - 1. The area encompassing address numbers measuring up to 6 SF and included on a sign shall not count toward the sign maximum allowable area.
 - 2. Any lettering smaller than one-half (1/2) inch in size shall be exempt from these requirements.
- B. <u>Computation of Area of Multifaced Signs.</u> The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces.
 - 1. Double-faced (back-to-back surfaces, or v-shaped signs) signs shall be regarded as a single sign with 2 faces only if mounted on a single structure, and the angle between each sign face does not exceed 45 degrees at the line or point where they meet; if the faces are exactly parallel or not v-shaped, the distance between shall not exceed 2 feet and shall have a finished enclosure to the edge facing perpendicular to the primary roadway.
 - 2. Where a sign consists of one or more three-dimensional objects (i.e., balls, cubes, clusters of objects, sculpture, or statue-like trademarks), the sign area shall be measured as their maximum projection upon a vertical plane. Signs with three-dimensional objects that exceed a projection of six inches from the sign face may be presented for consideration by the Planning and Zoning Commission according to Section 1295.14, Areas of Special Character and Creative Signs Permit.
- C. <u>Computation of Height.</u> The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to the construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the norma rgrade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower.
- D. <u>Sign Spacing</u>. Spacing between free standing signs shall be measured by the distance between two points along the edge of the street and on the same side of the street as the signs. The points shall be determined by drawing a line perpendicular to the street from the closest extremity of the sign to the street.
- E. <u>Sign Setback</u>. Sign setback shall be measured from the road right-of-way to the closest extremity of the sign, measured perpendicular to the street. (Ord. 2011-4023. Passed 6-6-11.)

CHAPTER 1207 Administration

1207.01	Position of Zoning Inspector created.	1207.06	Board of Zoning Appeals created.
1207.02	Duties of Zoning Inspector.	1207.07	Duties of Board of Zoning
1207.03	Planning and Zoning		Appeals.
	Commission created.	1207.08	Proceedings of Board of
1207.04	Duties of Planning and Zoning		Zoning Appeals.
	Commission.	1207.09	Schedule of fees, charges and
1207.05	Proceedings of Planning and		expenses.
	Zoning Commission.	1207.10	Fee refunds.

CROSS REFERENCES
Planning Commission - see CHTR. 7.02
Board of Zoning Appeals - see CHTR. 7.03

1207.01 POSITION OF ZONING INSPECTOR CREATED.

A Zoning Inspector, hired by the City Administrator subject to the rules of the Personnel Board of Review regarding certified lists of candidates, shall administer and enforce this Code. All officials and employees of the City may assist the Zoning Inspector by reporting to him any new construction, reconstruction, or apparent violations to this Code. (Ord. 2017-4280. Passed 3-6-17.)

1207.02 DUTIES OF ZONING INSPECTOR.

- A. For the purpose of this Code, the Zoning Inspector shall have the following duties:
 - 1. Issue zoning permits and certificates of compliance when the procedures and standards of this Code have been followed.
 - 2. Upon finding that any of the provisions of this Code are being violated, he shall notify in writing the person responsible for such violations, ordering such action(s) as necessary to correct such violations.
 - 3. Order discontinuance of illegal uses of land, buildings, or structures.
 - 4. Order removal of illegal buildings or structures or illegal additions or structural alterations.
 - 5. Order discontinuance of any illegal work being done.
 - 6. Take any other action authorized by this Code to ensure compliance with or to prevent violations of this Code. This may include the keeping of any records, permits, and certificates as are necessary for the performance of these duties.

1207.03 PLANNING AND ZONING COMMISSION CREATED.

The Planning and Zoning Commission is created under authority of Section 7.02 (A) of the Charter of the City of Pataskala, Ohio; enabling language is included here for reference. "There is hereby created a Planning and Zoning Commission consisting of seven members to be appointed as follows:

"The City Council shall appoint seven members of the Planning and Zoning Commission, who are electors of the City, subject to confirmation by a majority vote of the members of the Council to serve overlapping four year terms of office, provided that the seven members of the Planning and Zoning Commission under the statutory plan of government for the City of Pataskala are hereby designated as members of the Planning and Zoning Commission under this Charter to serve for the remainder of their terms. Thereafter each member shall have a four year term."

All vacancies shall be filled pursuant to Section 7.06 (B) of the Charter of the City of Pataskala, Ohio. Members of the Commission may be removed from office pursuant to Section 11.01 of the Charter of the City of Pataskala, Ohio. (Ord. 2017-4280. Passed 3-6-17.)

1207.04 DUTIES OF PLANNING AND ZONING COMMISSION.

- A. For the purpose of this Code, the Commission has the following specific responsibilities:
 - 1. Initially review all proposed amendments to this Code in accordance with Chapter 1217 and make recommendations to City Council.
 - 2. Determine the similarity of uses per Section 1213.01.
 - 3. Determine which uses are permitted or not permitted in any zoning district.
 - 4. Determine which uses are conditionally permitted in any zoning district, including the standards and criteria under which such uses shall be authorized, as specified in Chapter 1215.
 - 5. Authorize the substitution or extension of nonconforming uses, as specified in Chapter 1285.
 - 6. Approve all lot splits of less than twenty acres within the City prior to those lot splits being recorded with the Licking County Recorder's Office. The Chairman of the Planning and Zoning Commission may sign off on lot splits exceeding twenty acres per lot.
 - 7. Review all Planned Development Districts and make recommendations to the Council as provided in Chapter 1255. (Ord. 2017-4280. Passed 3-6-17.)

1207.05 PROCEEDINGS OF PLANNING AND ZONING COMMISSION.

The Commission shall operate pursuant to Section 7.06 of the Charter of the City of Pataskala, Ohio. Meetings shall be held at the call of the chairman and at such other times as the Commission may determine. A minimum of four (4) meetings shall be held annually; with one meeting to be scheduled during each calendar quarter. The Commission may, within the limits of the moneys appropriated by Council for the purpose, and with the additional consent of the Council and/or City Administrator as applicable, employ or contract with such planning consultants and executive and other assistants as it seems necessary.

All meetings shall be open to the public.

The Commission shall have the power to subpoena witnesses, administer oaths and may require the production of documents, under such regulations as it may establish.

The Commission may call upon the various departments of the City for assistance in the performance of its duties as may reasonably be required. (Ord. 2017-4280. Passed 3-6-17.)

1207.06 BOARD OF ZONING APPEALS CREATED.

The Board of Zoning Appeals is created under authority of Section 7.03 (A) of the Charter of the City of Pataskala, Ohio; enabling language is included here for reference. "There is hereby created a Board of Zoning Appeals consisting of five members, who are electors of the City, to be appointed by and confirmed by a majority vote of the members of the Council. Members of the Board shall serve for overlapping four year terms of office, provided the first members of the Board under this Charter shall be appointed for the following terms: three shall be appointed for four year terms, and two shall be appointed for two year terms; thereafter each member of the board shall be appointed for a term of four years."

All vacancies shall be filled pursuant to Section 7.06 (B) of the Charter of the City of Pataskala, Ohio.

Members of the Commission may be removed from office pursuant to Section 11.01 of the Charter of the City of Pataskala, Ohio. (Ord. 2017-4280. Passed 3-6-17.)

1207.07 DUTIES OF BOARD OF ZONING APPEALS.

- A. The Board has responsibilities pursuant to Sections 7.03 (B) and 7.03 (C) of the Charter of the City of Pataskala, Ohio: "(B) The Board of Zoning Appeals shall have the power to hear and decide appeals for exceptions to and variances in, the application of resolutions, ordinances, regulations and other legislative measures and orders of administrative officials or agencies governing zoning in the City, as may be required to afford justice and avoid unreasonable hardship, subject to such reasonable standards as shall be prescribed by Council by ordinance or resolution. The Board shall have such additional powers, duties and functions, relative to appeals from actions of the City's administrative officers or employees concerning public buildings, streets or other public property or works, as provided by ordinance or resolution. Appeals from actions of the Board shall be directly to an appropriate Court and not to the Council. (C) The Board may make advisory recommendations to the Council and the Planning and Zoning Commission concerning zoning matters as it believes to be in the best interest of the City. The Board shall have such other powers, duties and functions consistent with this Charter, as provided by the Municipality's ordinances and resolutions." For the purpose of this Code, the Board has the following specific responsibilities:
 - 1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, or determination made by the Zoning Inspector.
 - 2. To authorize such variances from the terms of this Code as shall be provided by Ordinance, in accordance with the provisions of Chapter 1211 of the Zoning Code.
 - 3. To interpret the Zoning Map and Code upon appeal of the Zoning Inspector's decision. Where the streets or lot layout actually on the ground, or as recorded, differs from the streets and lot lines as shown on the Zoning Map, the Board, after notice to the owners of the property or properties concerned, and after public hearing, shall interpret the Map in such a way as to carry out the intent and purpose of this Code. In case of any questions as to the location of any boundary line between zoning districts or where there is uncertainty as to the meaning and intent of a textual provision of the Code, a request for interpretation of the Zoning Map or the textual provision in question may be made to the Board and a determination shall be made by said Board.

4. To grant conditional zoning permits as specified in the official Schedule of District Regulations and under the conditions specified in Chapter 1215 with such additional safeguards as will uphold the intent of this Code. (Ord. 2017-4280. Passed 3-6-17.)

1207.08 PROCEEDINGS OF BOARD OF ZONING APPEALS.

The Board shall operate pursuant to Section 7.06 of the Charter of the City of Pataskala, Ohio. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. A minimum of four (4) meetings shall be held annually; with one meeting to be scheduled during each calendar quarter. The Board may, within the limits of the moneys appropriated by Council for the purpose, and with the additional consent of the Council and/or City Administrator as applicable, employ or contract with such planning consultants and executive and other assistants as it seems necessary.

All meetings shall be open to the public.

The Board shall have the power to subpoena witnesses, administer oaths and may require the production of documents, under such regulations as it may establish.

The Board may call upon the various departments of the City for assistance in the performance of its duties as may reasonably be required. (Ord. 2017-4280. Passed 3-6-17.)

1207.09 SCHEDULE OF FEES, CHARGES, AND EXPENSES.

City Council shall by separate ordinance establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, amendments, appeals, variances, conditional use permits, plan approvals, and other matters pertaining to the administration and enforcement of this Code requiring investigations, inspections, legal advertising, postage, and other expenses. The schedule of fees shall be posted in the office of the Zoning Inspector, and may be altered or amended only by Council. Until said fees are paid, no action shall be taken on any application. (Ord. 2017-4280. Passed 3-6-17.)

1207.10 FEE REFUNDS.

The situations under which required fees may be refunded are stated below.

- A. <u>Unnecessary fees.</u> When a fee is accepted by staff for a hearing or review that is later found to not be required, a full refund will be given.
- B. <u>Errors.</u> When an error is made in calculating a fee, overpayment will be refunded.
- C. <u>Full refunds</u>. If the written request for the withdrawal of an application is received before staff has notified other departments, incurred any advertising or notification costs, or prepared any copies or maps, a full refund will be given.
- D. <u>50 percent refunds.</u> If the written request for the withdrawal of an application is received after the copies or maps have been made or other departments have been notified, but before required notices have been prepared, a 50 percent refund will be given.
- E. No refunds.
 - 1. Appeal fees are nonrefundable, except as provided for in subsection B.
 - 2. Pre-application conference fees are nonrefundable, except as provided for in subsection A. or B.
 - 3. No refunds are given once the required notices have been prepared.
 - 4. Zoning permits, parks fees or special permits are nonrefundable except as provided for in subsection B. (Ord. 2017-4280. Passed 3-6-17.)

CHAPTER 1209 Enforcement and Penalty

1209.01	Enforcement - duties and general provisions.	1209.10	Temporary certificate of compliance.
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1209.02	Zoning permits required.	1209.11	Record of zoning permits and
1209.03	Conditions under which a		certificate of compliance.
	zoning permit is required.	1209.12	Failure to obtain a zoning
	(Repealed)		permit or certificate of
1209.04	Application for zoning permit.		compliance.
1209.05	Approval of zoning permit.	1209.13	Construction and use to be as
1209.06	Submission to the Director of		provided in applications, plans,
	the Department of		permits, and certificates.
	Transportation.	1209.14	Complaints regarding
1209.07	Building sanitary permits		violations.
	required.	1209.15	Void zoning permit.
1209.08	Expiration of zoning permit.	1209.99	Penalty.
1209.09	Certificate of compliance.		*

CROSS REFERENCES
Violation of zoning ordinances - see Ohio R.R. 713.13

1209.01 ENFORCEMENT - DUTIES AND GENERAL PROVISIONS.

It shall be the duty of the Zoning Inspector, the Planning and Zoning Commission, and the Board of Zoning Appeals to enforce this Code in accordance with the provisions hereof. All officials and public employees of the City of Pataskala shall conform to the provisions of this Code, and shall not issue any permit or license from the City for any use, building, or purpose in conflict with the provisions of this Code. Any permit or license issued in conflict with the provisions of this Code shall be null and void. Permits or licenses required under this chapter are subject to the exceptions provided for in Section 1225.05J.

1209.02 ZONING PERMITS REQUIRED.

No owner, lessee, or tenant shall use or permit the use of any structure, building or land or part thereof, hereafter created, erected, changed, converted or altered, wholly or partly, until the Zoning Inspector issues a zoning permit showing that such building, structure, land or part, and the proposed use thereof, are in conformity with this Zoning Ordinance. Zoning permits shall be issued only in conformity with the provisions of this Code unless the Zoning Inspector receives a written order from the Board of Zoning Appeals deciding an appeal, conditional use, or variance, as provided by this Code, or by enforceable court order. (Ord. 2006-3733. Passed 12-18-06.)

1209.03 CONDITIONS UNDER WHICH A ZONING PERMIT IS REQUIRED.

(EDITOR'S NOTE: Former Section 1209.03 was repealed by Ordinance 2006-3733, passed December 18, 2006.)

1209.04 APPLICATION FOR ZONING PERMIT.

Three (3) copies of the application for zoning permit shall be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire and may be revoked if work has not begun within one year or the work has not been substantially completed within 30 months from the issue date (total time).

Minimum content of the application is indicated on an application provided by the Zoning Department.

Where complete and accurate information is not readily available from existing records, the Zoning Inspector may require the applicant to furnish a survey of the lot by a registered surveyor.

1209.05 APPROVAL OF ZONING PERMIT.

Within 30 days after the receipt of an application, the Zoning Inspector, or his/her designated agent, shall either approve or disapprove the application in conformance with the provisions of this Code. All zoning permits shall, however, be conditional upon the commencement of work within one year. One copy of the application shall be returned to the applicant by the Zoning Inspector, after such copy is marked as either approved or disapproved and attested to same by the signature of the Zoning Inspector, or his/her designated agent on such copy. In the case of disapproval, the Zoning Inspector shall state on the returned application the specific reasons for disapproval. Two copies of the application, similarly marked, shall be retained by the Zoning Inspector. One copy retained by the Zoning Inspector shall be forwarded to the County Auditor upon issuance of a Certificate of Compliance along with one copy of the application. If the application is approved, the Zoning Inspector shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alteration is in conformance with the provisions of this Code.

If, within thirty (30) days, the Zoning Inspector has not taken action on the application for a zoning permit, the application shall be considered as denied. In this case, the applicant may appeal to the Board of Zoning Appeals for a decision regarding the permit application, pursuant to Chapter 1211.

In every case where the lot is not provided with public water supply and/or disposal of sanitary wastes by means of public sewers, the application shall be accompanied by a Certificate of Approval by the Licking County Health Department of the proposed method of water supply and for disposal of sanitary wastes prior to approval by the Zoning Inspector.

1209.06 SUBMISSION TO THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION.

Before any zoning permit is issued affecting any land within 300 feet of the centerline of a proposed new highway or a highway for which changes are proposed as described in the certification to local officials by the Director of the Department of Transportation, or any land within a radius of 500 feet from the point of intersection of said centerline with any public road or highway, the Zoning Inspector shall give notice, by registered or certified mail to the Director of the Department of Transportation. The Zoning Inspector shall not issue a zoning permit for 120 days from the date the notice is received by the Director of the Department of Transportation. If the Director of the Department of Transportation notifies the Zoning Inspector that he shall proceed to acquire the land needed, then the Zoning Inspector shall refuse to issue the zoning permit. If the Director of the Department of Transportation notifies the Zoning Inspector that acquisition at this time is not in the public interest or upon the expiration of the 120 days period or any extension thereof agreed upon by the Director of the Department of Transportation and the property owner, the Zoning Inspector shall, if the application is in conformance with all provisions of this Code, issue the zoning permit in conformance with the provisions of Section 1209.07.

1209.07 BUILDING SANITARY PERMITS REQUIRED.

Before a zoning permit is issued the applicant shall provide proof that the proper sanitary permits have been obtained from the proper authority.

A building permit is required from the Building Code Department before construction can begin on any commercial, industrial, or multi-family structures, or any one, two, or three family dwellings or room addition. Building permits shall be issued in conformance with the Building Code of Licking County and/or the Basic Building Code of the State of Ohio.

To apply for a building permit, the applicant shall submit appropriate material and fees, as specified by the Building Code Department. Building permits will be granted in accordance with the applicable Building Code. Upon submittal of application and any other necessary information, the applicant will be notified of the status of his application in accordance with the applicable Building Code.

1209.08 EXPIRATION OF ZONING PERMIT.

If the work described in any zoning permit has not begun within one year from the date of issuance thereof, said permit shall expire; it shall be revoked by the Zoning Inspector; and written notice thereof shall be given to the persons affected. Zoning shall revert back to the zoning status prior to the issuance of the expired permit if the work described in any zoning permit has not been completed within 30 months of the date of issuance thereof, said permit shall expire and be revoked by the Zoning Inspector, and written notice thereof shall be given to the persons effected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new zoning permit has been obtained or extension granted. Should said permit expire and be revoked by the Zoning Inspector, previous zoning designations shall be effective. If the applicant does not apply for an extension or new permit within one year of expiration and revocation of the initial permit, all alterations to affected land, buildings, and structures shall be returned to the status prior to such alteration at the applicant's expense.

1209.09 CERTIFICATE OF COMPLIANCE.

A. Certificate of Compliance. No owner, lessee or tenant shall occupy, permit to be occupied, convey, or offer for sale or lease any building, structure, building or land, or part thereof, hereafter erected, created, altered, converted, enlarged or improved unless a certificate of compliance has been issued by the Zoning Inspector after review and inspection. The property owner or contractor must request the certificate of compliance ten days prior to the earliest date of occupancy. Such certificate of compliance shall show and certify that such building, structure or land is in compliance with all provisions of these Codified Ordinances, in respect to such building, structure or land. No certificate of compliance shall be issued without appropriate approval as to any improvements required whether such improvements are required by the Municipal Engineer, Planning Commission, Council or otherwise.

Application for a certificate shall be made by the owner or occupant by submitting the

information necessary under Section 1209.04.

- B. Certificate of Compliance Application Required. Certificates of compliance shall be applied for by the applicant giving written notice to the Zoning Inspector that the exterior erection or structural alteration of such building shall have been completed in conformance with the provisions of this Code.
- C. Approval of Health Department Required. If the property in question is not served by public water and sewer, a certificate of compliance shall not be issued by the Zoning Inspector until approval of the water and sewage disposal systems has been given by the Licking County Health Department, or the Ohio Environmental Protection Agency. (Ord. 2006-3733. Passed 12-18-06.)

1209.10 TEMPORARY CERTIFICATE OF COMPLIANCE.

A temporary certificate of compliance may be issued by the Zoning Inspector for a period not exceeding six months from the date the temporary certificate of compliance is issued during alterations or partial occupancy of a building pending its completion.

1209.11 RECORD OF ZONING PERMITS AND CERTIFICATE OF COMPLIANCE.

The Zoning Inspector shall maintain a record of all zoning permits and certificates of compliance and copies shall be furnished upon request to any person. The City of Pataskala shall maintain a record of all zoning and compliance permits which shall become part of City record. Copies of permits shall be provided upon request to any persons having proprietary or tenency interest in the building or land affected.

1209.12 FAILURE TO OBTAIN A ZONING PERMIT OR CERTIFICATE OF COMPLIANCE.

Failure to obtain a zoning permit or certificate of compliance shall be a violation of this Code and shall be punishable under Section 1209.99.

1209.13 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS, AND CERTIFICATES.

Zoning permits or certificates of compliance issued on the basis of plans and applications approved by the Zoning Inspector authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto, and no other use, arrangement, or construction. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of this Code, and punishable as provided in Section 1209.99.

1209.14 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the cause and basis thereof shall be filed with the Zoning Inspector. The Zoning Inspector shall record properly such complaints, immediately investigate, and take action thereon as provided by this Code.

1209.15 VOID ZONING PERMIT.

A. A zoning permit shall be void if any of the following conditions exist:

1. The zoning permit was issued contrary to the provisions of this Code by the Zoning Inspector.

2. The zoning permit was issued based upon a false statement by the applicant.

3. The zoning permit has been assigned or transferred.

B. When a zoning permit has been declared void for any of the above reasons, written notice of its revocation shall be given by certified mail to the applicant, sent to the address as it appears on the application. Such notice shall also include a statement that all work upon or use of the building, structure, or land cease unless, and until, a new zoning permit has been issued.

1209.99 PENALTY.

- A. Whoever violates any provision of this Code or fails to comply with any of its requirements, including violation of conditions and safeguards established in various sections of this Code or fails to comply with any of its requirements shall be fined not more than \$100.00 or imprisoned for not more than 30 days, or both, per violation. Each day such violation continues shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense, and suffer the penalties herein provided. Nothing herein contained shall prevent the City of Pataskala from taking such other lawful action as is necessary to prevent or remedy any violation.
- B. If the offender is convicted of a violation of this Zoning Ordinance within a one-year period after being convicted for a violation of the same provision of this Zoning Ordinance, the offender shall be fined not less than \$250.00 and not more than \$500.00, or be imprisoned for not more than 30 days, or both. However, if the offender is convicted of a violation of this Zoning Ordinance and within one year preceding such conviction the offender has been convicted of two or more violations of the same provision of this Zoning Ordinance, the offender shall be fined not less than \$500.00 and not more than \$1,000.00 or be imprisoned for not more than 30 days, or both.
- C. Penalties as stated above shall apply unless penalties are delineated for specific sections of this Code, in which case the penalties delineated in those sections apply. (Ord. 2003-3490. Passed 6-16-03.)

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CHAPTER 1211 Appeals and Variances

Powers of Zoning Inspector,	1211.07	Standards for variances and
Board of Zoning Appeals, and		appeals.
City Council on matters of	1211.08	Supplementary conditions and
appeal.		safeguards.
	1211.09	Hearing by the Board of
		Zoning Appeals.
	1211.10	Notice of hearing.
	1211.11	Action by Board of Zoning
Variances.		Appeals.
Application for variances and	1211.12	Action by Board of Zoning
appeals.		Appeals. (Repealed)
	Board of Zoning Appeals, and City Council on matters of appeal. Procedures and requirements for appeals and variances. Appeals. Stay of proceedings. Variances. Application for variances and	Board of Zoning Appeals, and City Council on matters of appeal. Procedures and requirements for appeals and variances. Appeals. Stay of proceedings. Variances. Application for variances and 1211.12

CROSS REFERENCES

Appeals from zoning decisions - see Ohio R.C. 713.11, Ch. 2506 Duties of Board of Zoning Appeals - see P. & Z. 1207.07 Variance defined - see P. & Z. 1203.03

1211.01 POWERS OF ZONING INSPECTOR, BOARD OF ZONING APPEALS, AND CITY COUNCIL ON MATTERS OF APPEAL.

It is the intent of this Code that all questions of interpretation and enforcement shall be first presented to the Zoning Inspector, and that such questions shall be presented to the Board of

Zoning Appeals only on appeal from the decision of the Zoning Inspector.

It is further the intent of this Code that the powers of the City Council in connection with this Code shall not include hearing and deciding questions of interpretation and enforcement that may arise. Council may, through the various administrative departments of the City, provide such information to the Board as may be appropriate to assist the Board in its considerations particularly as such considerations might concern technical matters of which the administration might have specific or detailed information that should be considered in the review of the Board. Any such information provided by the administrative departments shall be forwarded to the Board in advance of a scheduled hearing and shall be presented in a neutral and objective manner, not in the form of a recommendation to approve or reject. In addition to the materials that may be submitted to assist the Board, the administrative departments shall provide such technical assistance to the Board as is requested by the Board and shall provide such information to the Board as the Board may feel is appropriate in its considerations. Appeals from actions of the BZA shall be directly to an appropriate court and not to the Council, pursuant to Section 7.03 (B) of the Charter of the City of Pataskala, Ohio.

The Board of Zoning Appeals shall:

- (a) Review and decide appeals on decisions or orders made by the Zoning Inspector or other administrative officers governing zoning and building. An appeal to the Board may be taken by:
 - (1) The owner of property that is the subject of the decision or order;
 - The owner of adjacent or contiguous property to the property that is the subject of the decision or order;
 - (3) Any other person who claims a direct, present injury or prejudice to a personal or property right or interest because of the decision or order.
 - (4) Any individual who has received specific notice from the Board or City Council.

Such appeal shall be taken within thirty days after the decision, by filing with the Clerk for the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The Clerk shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

- (b) Review to approve, disapprove, or approve with modifications, variances as provided for in this Chapter from the provisions of this Zoning Code and to attach to the variance whatever conditions that are deemed necessary to meet the objectives of this Code.
- (c) Review and interpret the official Zoning Map in any case where a question exists as to the location of any boundary line between zoning districts.
- (d) Review to approve, disapprove, or approve with modifications, applications for conditional use as provided for in Chapter 1215 and to attach to such conditional use whatever conditions are deemed necessary to meet the objectives of this Code. (Ord. 2007-3785. Passed 8-20-07.)

1211.02 PROCEDURES AND REQUIREMENTS FOR APPEALS AND VARIANCES.

Appeals and variances shall conform to the procedures and requirements of Sections 1211.03 through 1211.11, inclusive. The Board of Zoning Appeals has appellate jurisdiction to appeals from decisions of the Zoning Inspector and original jurisdiction as to variances, conditional uses and non-conforming uses. (Ord. 2007-3785. Passed 8-20-07.)

1211.03 APPEALS.

Appeals to the Board of Zoning Appeals concerning interpretation or administration of this Code may be taken by any person aggrieved including a tenant, or by a governmental officer, department, board, or bureau. Such appeal shall be taken within thirty days after the date of the decision, by filing with the Clerk for the Board of Zoning Appeals, a notice of appeal specifying the decision of the Zoning Inspector upon which the appeal is being taken. The Clerk shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken. The Clerk shall, in addition to transmitting the record to the Board, provide a summary description of the matter to the City Administrator in order for the City to determine whether comment by the City as contemplated by Section 1211.01 is considered appropriate. (Ord. 2007-3785. Passed 8-20-07.)

1211.04 STAY OF PROCEEDINGS.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector certifies to the Board of Zoning Appeals, after notice of appeal shall have been filed with him, that by reason of facts stated in the application a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may, on due cause shown, be granted by the Board of Zoning Appeals after notice to the Zoning Inspector, or by judicial proceedings.

1211.05 VARIANCES.

The Board of Zoning Appeals shall have the power to authorize, in specific cases filed as hereinafter provided, such variance from the provisions or requirements of the Zoning Code as are in harmony with the general purpose and intent of this Zoning Code where strict application of such provisions or requirements would result in practical difficulty, (for an area variance), or unnecessary hardship, (for a use variance), as the case may be, that would deprive the owner of the reasonable use of the land and structures involved, but in no other case. (Ord. 2007-3785. Passed 8-20-07.)

1211.06 APPLICATION FOR VARIANCES AND APPEALS.

Any person owning or having an interest in property, after being denied a zoning permit, may file an appeal from the decision of the Zoning Inspector. An appeal or application for a variance shall be filed in triplicate with the Clerk on a form as specified for that purpose. The appeal or application for a variance shall contain the following information:

- 1. Name, address, and phone number of appellant or applicants.
- 2. Zoning district in which the property is currently located.
- 3. Legal description of property as recorded in Licking County Recorder's office, legal owner and address.
- 4. Description of the nature of the relief requested; each application shall refer to the specific provisions of this Code which apply.
- 5. A narrative statement explaining the following:
 - a. The reason for the variance or appeal.
 - b. The specific reasons why the variance or appeal is justified; in cases of variance, the factors listed in Section 1211.07 shall be specifically addressed. (Ord. 2017-4298. Passed 11-20-17.)

1211.07 STANDARDS FOR VARIANCES AND APPEALS.

- A. Area Variances.
 - (1) An application for an area variance need not establish unnecessary hardship; it is sufficient that the application shows practical difficulties. The standard for granting a variance is dependent on the applicant showing sufficient evidence of practical difficulties. In determining whether practical difficulties exist, the Board of Zoning Appeals shall consider the following factors to determine if the zoning regulation at issue unreasonably deprives an owner of a permitted utilization of the subject property:
 - (a) Whether the property in question will yield a reasonable return or if there can be a beneficial use of the property without the variance;

- (b) Whether there are unique physical circumstances or conditions that prohibit the property from being developed in strict conformity with the zoning regulation such that a variance is necessary to enable the reasonable use of the property;
- (c) Whether the variance requested is substantial;
- (d) Whether the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a substantial detriment as a result of the variance;
- (e) Whether the variance, if granted, will substantially or permanently impair the appropriate use or development of adjacent property;
- (f) Whether the variance, if granted, will be detrimental to the public welfare;
- (g) Whether the variance, if granted, would adversely affect the delivery of governmental services;
- (h) Whether the property owner purchased the subject property with knowledge of the zoning restriction;
- (i) Whether the property owner's predicament can be obviated through some other method than variance;
- (j) Whether the variance, if granted, will represent the minimum variance that will afford relief and represent the least modification possible of the requirement at issue; and,
- (k) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- (2) In addition to the factors set forth above, other relevant factors may also be considered by the Board of Zoning Appeals on a case by case basis including any comments received by the administrative departments of the City pursuant to Section 1211.01; further, the Board of Zoning Appeals may place such weight on each factor as it shall determine is warranted in a particular case. Pursuant to the applicable standard and based upon its consideration of the above factors area variances that may be granted are as follows:
 - (a) To permit any yard or setback less than the yard or setback required by the applicable regulation;
 - (b) To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots (it is suggested that no reduction should exceed 20% of the requirement):
 - (c) To permit the same off-street parking facility to qualify as required facilities for two or more uses, where substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week;
 - (d) To reduce the applicable off-street parking or loading facilities required (it is suggested that no reduction should exceed 30% of the requirement):
 - (e) To allow for the deferment of required parking facilities for a reasonable and specified period of time;
 - (f) To increase the maximum distance that required parking spaces are permitted to be located from the use served (it is suggested that the same should not be increased by more than 40%);
 - (g) To increase the maximum allowable height or area of signs on a lot (it is suggested that the same should not be increased by more than 25%); and

- (h) To increase the maximum gross floor area of any use so limited by the applicable regulation (it is suggested that the same should not be increased by more than 25%).
- B. Use Variances. Use variances shall be allowed only in the most extreme of circumstances and only upon a showing of unnecessary hardship. In determining whether there exists an unnecessary hardship, the Board shall consider each factor set forth in subsection A. hereof and may grant the variance only if it makes a determination in favor of the owner in each instance. In addition, no unnecessary hardship shall exist where:

(a) The applicant/owner created the alleged hardship;

(b) The Board finds that the application is primarily made for purposes of

convenience or profit; or

(c) A substantial ground offered in support of an application for use variance is the existence of other non-conforming use of neighboring lands, structures, or buildings, in the same zoning district or in other zoning districts.

It is the intention of this paragraph to prevent a property owner from attempting to request a use variance rather than engage in the rezoning process.

C. Variance for Religious Institutions. Notwithstanding the above, the Board shall grant an area variance to the extent required by the Religious Land Use and Institutionalized Persons Act of 2000 (as it may be amended from time to time) where the Board finds that the requirement for which a variance is requested imposes a substantial burden on the religious exercise of a religious institution unless the Board finds the provision is the least restrictive means of furthering a compelling government interest. (Ord. 2007-3785. Passed 8-20-07.)

1211.08 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.

In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Code. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this Code and punishable under Section 1209.99.

1211.09 HEARING BY THE BOARD OF ZONING APPEALS.

The Board of Zoning Appeals shall conduct a hearing within forty-five days after receipt of an appeal or an application for variance from the Clerk for the Board.

The following persons may appear at hearings as parties and be heard in person or by

attorney:

(1) The applicant or appellant;

The owner of property that is the subject of the application or appeal, if the owner is not the applicant or appellant;

(3) The owner of property adjacent or contiguous to the property that is the subject of

the application or appeal; and

- (4) Any other person who claims a direct, present injury or prejudice to any personal or property right or interest that was prejudiced by the decision or order appealed from, or claims such injury or prejudice will occur if the application is approved or denied.
- (5) Any individual who is entitled to receive specific notice from the Board or City Council.

A person authorized to appear and be heard may:

(1) Present his or her position, arguments and contentions;

- Offer and examine witnesses and present evidence in support of his or her position, arguments, and contentions;
- (3) Cross-examine witnesses purporting to refute his or her position, arguments, and contentions:
- (4) Offer evidence and testimony to refute evidence and testimony offered in opposition to his or her position, arguments, and contentions;
- (5) Proffer any evidence or testimony into the record if such evidence or testimony has not been admitted by the Board.

In addition to those individuals who may appear before the Board, the City shall, through the appropriate administrative individual, appear to address any questions as the Board may determine necessary or appropriate as a consequence of any comments presented to the Board under Section 1211.01.

Hearings of the Board on such matters are open to the public but are not public hearings. Only those individuals who have standing to participate in a particular hearing shall participate in a hearing conducted pursuant to this chapter. The Board of Zoning Appeals, at the time of the hearing of an application, shall determine who has standing to participate in that hearing. Any witness offering testimony or presenting evidence at a hearing shall be placed under oath prior to offering testimony or evidence. Hearings shall be recorded for later transcription if necessary relative to an appeal of the decision of the Board. (Ord. 2007-3785. Passed 8-20-07.)

1211.10 NOTICE OF HEARING.

Written notice of the public hearing to be held for a variance or appeal application shall be mailed to all adjoining property owners of record within 300 feet of any property line of the subject property by first class mail, and given in one (1) or more newspapers of general circulation in the City at least 10 days before the date of the public hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed variance or appeal. Notice of the public hearing shall be mailed by the Planning and Zoning Department by first class mail. Failure to deliver notice, as provided in this section, shall not invalidate any action taken by the Board of Zoning Appeals. (Ord. 2017-4298. Passed 11-20-17.)

1211.11 ACTION BY BOARD OF ZONING APPEALS.

Within thirty days after the hearing required in Section 1211.09, the Board of Zoning Appeals shall either approve, approve with supplementary conditions or disapprove the appeal or request for variance. The determination of the Board shall be in writing and shall be served upon those individuals or their representatives who participated in the hearing conducted by the Board.

The written decision of the Board shall set forth therein the reasoning of the Board in approving, approving with conditions, or denying the appeal or application. The Board of Zoning Appeals shall provide a copy of its decision and findings to the Clerk who shall forward the decision as set forth in this section. For purposes of further appeal by any party aggrieved by a decision of the Board, the decision of the Board shall be deemed as final upon transmittal by the Clerk by ordinary mail service.

If, within thirty days after the public hearing, the Board has not taken action on the application, the application shall be presumed to be denied. (Ord. 2007-3785. Passed 8-20-07.)

1211.12 ACTION BY BOARD OF ZONING APPEALS.

(EDITOR'S NOTE: Former Section 1211.12 was repealed by Ordinance 2007-3785, passed August 20, 2007.)

CHAPTER 1213 Similar Uses

1213.01 Similar uses.

CROSS REFERENCES Similar use defined - see P. & Z. 1203.03

1213.01 SIMILAR USES.

A. Determination as to whether a use is similar to uses permitted by right shall be considered as an expansion of the use regulations of the zoning district and not as a variance applying to a particular situation. Any use found similar shall thereafter be included in the enumeration of uses permitted by right in subsequent issues of the text of the Zoning Code.

Applications for zoning permits for uses not specifically listed in the permitted building or use classifications of the zoning district, which the applicant feels qualify as a similar use under the provisions of this chapter, shall be submitted to the Planning and Zoning Commission.

Prior to taking action on the inclusion of a use as a similar use, the Planning and Zoning Commission shall hold a public hearing. The public hearing shall be advertised according to the requirements of Section 1217.08.

Within thirty (30) days after the public hearing, the Planning and Zoning Commission shall determine whether the requested use is similar to those uses permitted in the specific district. In order to find that a use is similar, the Planning and Zoning Commission shall find that all of the following conditions exist:

- 1. Such use is not listed as a permitted or conditional use in another zoning district.
- 2. Such use conforms to basic characteristics of the classification to which it is to be added and is more appropriate to it than to any other classification.
- 3. Such use creates no danger to health and safety and creates no offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences to an extent greater than normally resulting from uses listed in the classification to which it is to be added.
- 4. Such use does not create traffic to a greater extent than uses listed in the classification to which it is to be added.
- 5. Such use is consistent with the affected zone in the Comprehensive Plan.

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CHAPTER 1215 Conditional Uses

1215.01	Procedures and requirements for approval of conditional use	1215.06	Supplementary conditions and safeguards.
	permits.	1215.07	Procedure for hearing; notice.
1215.02	General provisions.	1215.08	Action by the Board of Zoning
1215.03	Contents of application for		Appeals.
	conditional use permit.	1215.09	Expiration and revocation of
1215.04	General standards applicable to		conditional use permit.
	all conditional uses.	1215.10	Exception.
1215.05			
	uses.		

CROSS REFERENCES

Conditional use defined - see P. & Z. 1203.03 Board of Zoning Appeals to grant permits - see P. & Z. 1207.07

1215.01 PROCEDURES AND REQUIREMENTS FOR APPROVAL OF CONDITIONAL USE PERMITS.

Conditional uses shall conform to the procedures and requirements of Sections 1215.02 through 1215.09, inclusive.

1215.02 GENERAL PROVISIONS.

Under some unusual circumstances, a use which more intensely affects an area than those uses permitted in the zoning district in which it is located may nevertheless be desirable and also compatible with permitted uses, if that use is properly controlled and regulated. The Planning and Zoning Commission has defined such uses to exist as conditional uses where these unusual circumstances exist and where the conditional use will be consistent with the general purpose and intent of this Zoning Code.

1215.03 CONTENTS OF APPLICATION FOR CONDITIONAL USE PERMIT.

- A. Any person owning or having an interest in property may file an application to use such property for one or more of the conditional uses provided for by this Code in the Zoning District in which the property is situated. An application for a conditional use shall be filed with the Zoning Inspector who shall forward within five (5) days a copy to the Board of Zoning Appeals. At a minimum the application shall contain the following information:
 - 1. Name, address, and phone number of applicant.
 - 2. Legal description of proposed conditional use and of the property as listed in the Licking County Recorder's Office.
 - 3. Description of existing use.

- 4. Present zoning district
- 5. Description of proposed conditional use.
- 6. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards, and such other information as the Board or Commission may require to determine if the proposed conditional use meets the intent and requirements of this chapter on a copy of a map certified by the County Engineer's office showing the property in question and surrounding areas.
- 7. A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, glare, odor, fumes and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the comprehensive plan.
- 8. Such other information as may be required in Section 1215.05, including legal owner's consent if applicant is not the legal owner or satisfactory showing of applicant's legal or equitable interest.
- 9. A fee as established by City Council according to Section 1207.09. (Ord. 2017-4298. Passed 11-20-17.)

1215.04 GENERAL STANDARDS APPLICABLE TO ALL CONDITIONAL USES.

- A. In addition to the specific requirements for conditionally permitted uses as specified in Section 1215.05, the Board shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:
 - 1. Is in fact a conditional use as established under the provisions of Title Three of the Planning and Zoning Code for the specific zoning district of the parcel(s) listed on the application.
 - 2. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the City comprehensive plan and/or this Code.
 - 3. Will be designed, constructed, operated, and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
 - 4. Will not be hazardous or disturbing to existing or future neighboring uses.
 - 5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

- 6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- 7. Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property, or the general welfare, including but not limited to excessive production of traffic, noise, smoke, fumes, glare, odor, potential for explosion, and air or water pollution.
- 8. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
- 9. Will not result in destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

1215.05 SPECIFIC CRITERIA FOR CONDITIONAL USES.

The following is a list of specific criteria which can be used in, but is not limited to, evaluating or determining conditionally permitted uses. The Board of Zoning Appeals should review the following items to determine if any of these should be a condition for approval of the proposed conditional use. The Board of Zoning Appeals may impose other conditions to the following list in order to protect and promote the public health and safety:

A. Protection of Surrounding Properties and Neighborhoods.

- 1. Such uses shall not be conducted closer than 500 feet from any residential district, nor closer than 200 feet from any structure used for human occupancy in any other district.
- 2. All structures and activity areas should be located at least 100 feet from all property lines.
- 3. Such structures should be located adjacent to parks and other non-residential uses such as schools and shopping facilities where use could be made of joint parking facilities.
- 4. Site locations should be preferred that offer natural or man-made barriers that would lessen the effect of intrusion into a residential area.
- 5. Such uses should be properly landscaped to be harmonious with surrounding residential uses in accordance with Chapter 1283.
- 6. The area of use shall be completely enclosed by a fence sufficient for screening and appropriately landscaped to be harmonious with surrounding properties.
- 7. All permitted installations shall be kept in a neat and orderly condition so as to prevent injury to any single property, any individual, or to the community in general.
- 8. There shall be no more than one sign oriented to each abutting street identifying the activity.
- 9. All lighting and lighting used for advertising purposes shall be directed away from surrounding and nearby residential properties by a suitable screen of evergreen shrubs of at least 10 feet in width and 4 feet in height, or a wall at least 6 feet in height above finished grade.
- 10. Sound from loudspeakers which can be detected beyond the premises shall not be permitted.
- 11. The buildings shall be designed so as to conform with the architectural character of the neighborhood.

- 12. Structures must be located at least 50 feet from any other lot in any R District.
- 13. Structures must be located at least 25 feet from any lot in any R-District.

B. Specific Performance Standards.

- 1. No lighting shall constitute a nuisance and shall in no way impair safe movement of traffic on any street or highway.
- 2. Hours may be limited further depending upon the surrounding land uses.
- 3. The site shall not be used for the storage of trucks, and truck parking shall be limited to a time not to exceed 24 hours.
- 4. The facility shall be operated so that guests reside at the home for no longer than one contiguous week.
- 5. The facility shall contain not more than four (4) sleeping rooms for guests.
- Outdoor pens and exercise runs shall be kept in a clean and sanitary condition and shall be screened from public view. A screening plan shall be submitted to the Board of Zoning Appeals for approval.
- 7. Sanitation practices shall be adequate to assure that objectionable odors shall not be noticeable on or off the lot considering various wind conditions.
- 8. The applicant shall submit a written statement showing the measures and practices he will use to reduce the noise level in the design of the building and the management or rotation of animals and outdoor exercise runs.
- 9. No dead animals shall be buried on the premises and incineration of dead animals shall not create odors or smoke.
- 10. Outdoor playgrounds, tot lots, exercise areas etc., shall be fully enclosed by a fence, the height and design which shall be approved by the Board of Zoning Appeals.

C. Excavation.

- 1. Information shall be submitted on the anticipated depth of excavations and on depth and probable effect on the existing water table and coordinated with the Ohio Division of Water.
- 2. All excavations shall be made either to a water producing depth, such depth to be not less than five feet below the low water mark, or shall be graded or backfilled with non-noxious, non-flammable, and non-combustible solids, to secure:
 - (1) That the excavating area shall not collect or permit to remain therein stagnant water.
 - (2) That the surface of such area which is not permanently submerged is graded or backfilled as necessary so as to reduce the peaks and depressions thereof so as to produce a gently running surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area. The banks of all excavations not backfilled shall be sloped which shall not be less than three feet horizontal to one foot vertical and said bank shall be seeded.

D. Mining.

There shall be filed with the Board a detailed plan for the restoration of the area to be mined which shall include the anticipated future use of the restored land, the proposed final topography indicated by contour lines of no greater interval than five feet, the type and number per acre of trees or shrubs or grass to be planted, and the location of future roads, drives, drainage courses, or other improvements contemplated.

- 2. There shall be filed with the Zoning Inspector a location map which clearly shows areas to be mined and the location of adjacent properties, roads, and natural features.
- 3. All equipment and machinery shall be operated and maintained in such a manner as to minimize dust, noise, and vibration. Access roads shall be maintained in dust-free condition by surfacing or other treatment as may be specified by the City Director of Services, and must also comply with Ohio Administrative Code Chapter 3745-17.

E. Access.

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- 1. All points of entrance or exit should be located no closer than 400 feet from the intersection of two arterial thoroughfares or no closer than 200 feet from the intersection of an arterial street and a local or collector street.
- 2. Structures should have primary access to a collector thoroughfare.
- 3. Such developments should have primary access to arterial thoroughfares or be located at intersections of arterial and/or collector streets.
- 4. Such uses should be located on an arterial thoroughfare, adjacent to non-residential uses such as commerce, industry, or recreation, or adjacent to sparsely settled residential uses.
- 5. Such developments should be located on or immediately adjacent to state highways.
- 6. Truck parking areas, maneuvering lands, and accessways to public thoroughfares shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site. The site shall not be used for the storage of trucks, and truck parking shall be limited to a time not to exceed 24 hours.
- 7. Such use should be subject to the restrictions outlined in Chapter 1259, Transportation Corridor Overlay District.
- 8. The applicant shall submit a parking and traffic circulation plan to the Board of Zoning Appeals for approval. The design, location, and surface of the parking areas and vehicular approaches shall be subject to approval by the Board so as to reduce congestion, promote safety, and reduce the impact on the residential character of the neighborhood. The plan shall provide for the separation of incoming and outgoing vehicles during high volume periods and shall, if applies, provide a safe drop off point for pedestrians that will not impede other traffic.

F. Production, Processing and Retailing of Marijuana.

(Ord. 2001-3397. Passed 8-20-01.)

1. The production, processing and retailing of marijuana is and remains illegal under Federal law. Nothing herein or as provided elsewhere in the Ordinances of the City of Pataskala is an authorization to circumvent Federal law. Only licensed producers, processors and retailers may locate within the City and only to the extent required by State law. Any violation of this Section is declared to be a public nuisance per se subject to abatement as provided in the Ordinances of the City or State law.

Unless otherwise specifically mandated by State law the production, processing and retailing of marijuana shall be located a minimum of 1,000 feet from the following:

- a. Bar.
- b. Firearm sales or range.
- c. School.
- d. Public Park.
- e. Playground.
- f. Recreational facility.

- g. Daycare.
- h. Adult entertainment facility.
- i. Religious institution.
- i. Restaurant.
- k. Library.
- 2. The production, processing and retailing of marijuana shall conform to all local and permissible state regulations.
- G. Miscellaneous Administrative.
 - 1. The Board of Zoning Appeals may, at its discretion, require that, upon the issuance of a conditional use permit, the conditions of the permit be subject to periodic review to insure compliance with the terms of the permit. (Ord. 2015-4237. Passed 10-5-15.)

1215.06 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.

In granting any conditional use, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. All conditional use permits are subject to revocation should the applicant fail to uphold the conditions upon which the conditional use permit was granted. A public hearing shall be held to review the purported violation. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall also be deemed a violation of this Code and are punishable under Section 1209.99.

1215.07 PROCEDURE FOR HEARING; NOTICE.

Written notice of the public hearing to be held for a conditional use application shall be mailed to all adjoining property owners of record within 300 feet of any property line of the subject property by first class mail, and given in one (1) or more newspapers of general circulation in the City at least 10 days before the date of the public hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed conditional use. Notice of the public hearing shall be mailed by the Planning and Zoning Department by first class mail. Failure to deliver notice, as provided in this section, shall not invalidate any action taken by the Board of Zoning Appeals. (Ord. 2017-4298. Passed 11-20-17.)

1215.08 ACTION BY THE BOARD OF ZONING APPEALS.

Within 30 days after the public hearing required in Section 1215.07 the Board shall either approve, approve with supplementary conditions as specified in Section 1215.06, or disapprove the application as presented. If the application is approved or approved with modifications, the Board shall direct the Zoning Inspector to issue a conditional use permit listing the specific conditions specified by the Board for approval. If the application is disapproved, the applicant may seek relief through the Court of Common Pleas.

If, within forty-five (45) days after the public hearing, the Board has not taken action on the application, the application shall presume to be approved.

1215.09 EXPIRATION AND REVOCATION OF CONDITIONAL USE PERMIT.

The approval of the conditional use permit issued in accordance with Section 1215.08 shall become null and void if such use is not carried out within six (6) months after date of approval. The City may, following notice to the applicant and a hearing, revoke the zoning permit upon written complaint by any resident or official of the City of violation of this Code and/or the written terms and conditions upon which approval was granted.

If the conditional use is not carried out within six (6) months after the date of approval, the Board of Zoning Appeals may grant one extension of a conditional use permit issued in accordance with Section 1215.08 for an additional period of six (6) months.

A conditional use permit shall be deemed to authorize only one particular conditional use and said permit shall automatically expire if, for any reason, the conditional use shall cease for more than one year.

1215.10 EXCEPTION.

Notwithstanding any provision herein to the contrary, the Planning and Zoning Commission shall have the authority to approve conditional uses as part of a Planned Development District. The Planning and Zoning Commission may permit such uses if it determines the uses are consistent with the general intent of the Planned Development District. (Ord. 2002-3432. Passed 5-6-02.)

CHAPTER 1217 Amendments

1217.01	General provisions.	1217.08	Notice of public hearing in
1217.02	Initiation of zoning		newspaper.
	amendments.	1217.09	Notice to property owners by
1217.03	Contents of application.		Planning and Zoning
1217.04	General standards for all		Commission.
	zoning amendments.	1217.10	Recommendation by Planning
1217.05	Transmittal of ordinance to		and Zoning Commission.
	Planning and Zoning	1217.11	Public hearing by Council.
	Commission.	1217.12	Display of relevant materials.
1217.06	Submission to City	1217.13	Action by Council.
	Administrator and Director of	1217.14	Zoning of newly-annexed land.
	Services.		-
1217.07	Public hearing by Planning		
	and Zoning Commission.		

CROSS REFERENCES

Zoning amendments - see CHTR. 4.11 Statutory provisions - see Ohio R.C. 713.10

1217.01 GENERAL PROVISIONS.

Whenever the public necessity, convenience, general welfare or good zoning practices require, Council may, by ordinance, amend, supplement or change the regulations, district boundaries or classifications of property now or hereafter established by the Zoning Code or amendments thereof. The Planning and Zoning Commission shall submit its recommendation regarding all applications or proposals for amendments or supplements that come before the Commission to Council.

1217.02 INITIATION OF ZONING AMENDMENTS.

A. Amendments to this Code may be initiated in one of the following ways:

1. By a member of Council pursuant to Section 4.11(A) of the Charter of the City of Pataskala.

2. By the adoption of a motion by the Planning and Zoning Commission

submitting the proposed amendment to City Council.

3. By the filing of a zoning amendment application by at least one (1) owner of property, or his designated agent, within the area proposed or affected by said amendment.

1217.03 CONTENTS OF APPLICATION.

- A. An application pursuant to Section 1217.02A.3. for amendment shall be transmitted by the applicant to the Zoning Inspector and shall contain, at a minimum, the following information:
 - 1. Name, address, daytime telephone number and, if applicable, facsimile number of the applicant(s) and at least one legal owner of the property.
 - 2. Proposed amendment to the text or legal description of the property affected and any deed restrictions running with the property.
 - 3. Present use and district.
 - 4. Proposed use and district.
 - 5. Twenty-five (25) copies of a vicinity map drawn at a scale no smaller than 1:60 showing the following:
 - a. Property lines, ownership, and property dimensions.
 - b. Streets, street names, alleys, and thoroughfares.
 - c. Existing zoning district boundaries and designations.
 - 6. Twenty-five (25) copies of site maps and diagrams at a scale no smaller than 1:60, showing proposed changes to zoning district boundaries and designations, including but not limited to:
 - a. Size (footprint, dimensions), location and use of all existing structures and proposed structures and land for the subject property.
 - b. Size (footprint, dimensions), location and use of all existing structures on adjacent property within 500 feet of the perimeter of the subject property.
 - c. Number and dimensions of any existing and any proposed parking and/or loading spaces.
 - d. Off-street parking spaces, aisles, and accesses.
 - e. Proposed streets and traffic accesses.
 - f. Yard dimensions.
 - g. Existing and proposed utility rights of way.
 - h. Refuse and service areas.
 - i. Landscape features and plans, including the location and trunk diameter of existing trees of 8 inches or greater measured 5 feet from ground level in accordance with Section 1283.03.
 - j. Site drainage patterns and facilities, including but not limited to drain tiles 4 inches in diameter or larger, cisterns, and ponds, waterways, floodways, and floodplains.
 - k. Location and names of soils.
 - 1. Open spaces.
 - m. Improved walkways, pathways, and trails.
 - n. Uses of land.
 - Drawings and dimensions of signs.
 - 7. A statement on the ways in which the proposed amendment relates to and is consistent with the comprehensive plan.

10rd, 2001-3397, P. 8-20-01.

- 8. A list of all property owners within 200 feet or two (2) parcels from any point of the perimeter of the property line of the parcel(s) proposed to be rezoned, whichever method provides for a greater number of owners, and their mailing addresses as appearing on the Licking County Auditor's current tax list. The applicant shall also provide a list of addresses of all property owners within the above reference boundaries. Applicant must sign and submit the acknowledgement form regarding completeness of the list of property owners within 200 feet or two properties.
- 9. A statement as to how the proposed amendment will impact adjacent and proximate properties.

10. Any other information as may be requested by the Zoning Inspector to determine conformance with, and provide for enforcement of the Zoning Code.

11. Owner's consent to application or satisfactory showing of applicant's legal or equitable interest in said property. Each application for a proposed amendment to the Zoning Map shall be verified by at least one of the property owners within the area proposed to be rezoned, attesting to the truth and correctness of all facts and information presented in the application.

12. A fee as established by Council plus all notification mailing costs as determined by the Planning and Zoning Clerk.

(Ord. 2017-4298. Passed 11-20-17.)

1217.04 GENERAL STANDARDS FOR ALL ZONING AMENDMENTS.

- A. The following general standards may be considered as criteria for approval of all zoning amendments:
 - 1. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the Comprehensive Plan and/or this Code.
 - 2. Will be designed, constructed, operated, and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
 - 3. Will not be hazardous or disturbing to existing or future neighboring uses.
 - 4. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
 - 5. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
 - 6. Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor, air or water pollution, or potential for explosion.
 - 7. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
 - 8. Will not result in destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

1217.05 TRANSMITTAL OF ORDINANCE TO PLANNING AND ZONING COMMISSION.

Upon referral of the proposed ordinance by Council, or the filing of an application by at least one (1) owner or lessee of the property, or their designated agent, said proposed amendment or application shall be transmitted to the Planning and Zoning Commission.

1217.06 SUBMISSION TO CITY ADMINISTRATOR AND DIRECTOR OF SERVICES.

Before any zoning amendment is considered by the Commission affecting any land for which changes are proposed by the applicant, the Commission shall give written notice at least ten (10) days prior to the public hearing to the City Administrator and Director of Services concerning such requested zoning change. The City Administrator and Director of Services shall provide written comments to the Commission on any anticipated effects on the infrastructure that the proposed zoning change might cause.

1217.07 PUBLIC HEARING BY PLANNING AND ZONING COMMISSION.

The Planning and Zoning Commission shall schedule a public hearing after the adoption of their motion, transmittal of a proposed amendment from Council, or the filing of an application for zoning amendment. Said hearing shall be not less than 20 nor more than 60 days from the date of adoption of such motion, transmittal of such proposed amendment, or the filing of such application. The Commission may continue a public hearing. (Ord. 2006-3733. Passed 12-18-06.)

1217.08 NOTICE OF PUBLIC HEARING IN NEWSPAPER.

Before holding the public hearing as required in Section 1217.07, notice of such hearing shall be given by the Planning and Zoning Commission by at least one publication in one or more newspapers of general circulation of the City at least 10 days before the date of said hearing. This notice shall set forth the time and place of the public hearing, the nature of the proposed amendment, the time, and state the name of the person responsible for giving notice of public hearing and place where the motion, resolution, or application proposing to amend the Zoning Code will be available for examination for a period of at least 10 days prior to the public hearing, and a statement that after the conclusion of such public hearing the matter will be referred to Council for further determination.

1217.09 NOTICE TO PROPERTY OWNERS BY PLANNING AND ZONING COMMISSION.

If the proposed amendment will effect change in the Zoning Map, written notice of the public hearing to be held for an amendment application shall be mailed to all adjoining property owners of record within 300 feet of any property line of the subject property by first class mail, and given in one (1) or more newspapers of general circulation in the City at least 10 days before the date of the public hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed amendment. Notice of the public hearing shall be mailed by the Planning and Zoning Department by first class mail. Failure to deliver notice, as provided in this section, shall not invalidate any action taken by the Planning and Zoning Commission. (Ord. 2017-4298. Passed 11-20-17.)

1217.10 RECOMMENDATION BY PLANNING AND ZONING COMMISSION.

Within 30 days after the public hearing required by Section 1217.07, the Planning and Zoning Commission shall recommend to Council that the amendment be granted as requested, or it may recommend a modification of the amendment requested, or it may recommend that the amendment be not granted. Failure of the Commission to take action on the application within 30 days shall be deemed a recommendation for approval of the proposed amendment, and the application will be sent to Council.

1217.11 PUBLIC HEARING BY COUNCIL.

Before the proposed ordinance may be passed, Council shall hold a public hearing, and shall give at least thirty (30) days notice of the time and place thereof in a newspaper of general circulation in the City. Notice of such public hearing in a newspaper, and contiguous property owners, shall be given by the Clerk of Council as specified in Sections 1217.08 and 1217.09.

1217.12 DISPLAY OF RELEVANT MATERIALS.

During such thirty (30) days, the text or copy of the text of the proposed ordinance, together with maps, plans, and reports submitted by the Planning and Zoning Commission shall be on file, for public examination, in the City Hall.

1217.13 ACTION BY COUNCIL.

Council shall either adopt or deny the recommendation of the Planning and Zoning Commission pursuant to Article IV of the Charter of the City of Pataskala, Ohio.

1217.14 ZONING OF NEWLY-ANNEXED LAND.

- A. Unless Council acts under Section 4.11 of the City Charter, the following procedure shall apply for zoning of land being annexed to the City.
 - 1. The Planning and Zoning Commission shall be notified of all proposed newly-annexed land accepted by the County Commissioners within ten (10) days of receipt by the City. The applicant for the annexation shall file an application for zoning review with the Commission. Such application shall include:
 - a. An annexation map of the property at a scale no smaller than 1:60.
 - b. The property's zoning classification under the previous jurisdiction and current uses.
 - 2. The Planning and Zoning Commission shall recommend a Pataskala zoning classification to Council that is most appropriate to the property's zoning classification under the previous jurisdiction with consideration given to the current and any proposed uses of the property, and use of adjacent parcels within Pataskala.
 - 3. The Planning and Zoning Commission's zoning classification recommendation shall be made to Council not later than forty-five (45) days after notification by the Clerk of Council.

- 4. The Planning and Zoning Commission will hold at least one public hearing with ten days' notice by publication of the time, date, and place of the hearing of a newspaper of general circulation within the City. Notice of such public hearing in a newspaper and notice to contiguous property owners shall be given by the Zoning Clerk as specified in Sections 1217.08 and 1217.09.
- 5. After receiving a zoning classification recommendation from the Planning and Zoning Commission to be made part of the Ordinance accepting annexation of property, and before the adoption of said Ordinance, Council shall hold a public hearing on the Commission's recommendation and any Council-made proposed amendments. At least thirty days' notice of the time, date, and place of the hearing shall be given by publication in a newspaper of general circulation within the City, as specified in Section 1217.08.

TITLE THREE - Zoning Districts and Regulations

- Chap. 1221. General Regulations.
- Chap. 1223. Distressed Properties.
- Chap. 1225. Agricultural District (AG).
- Chap. 1227. Rural Residential District (RR).
- Chap. 1229. Medium-Low Density Residential District (R-87).
- Chap. 1231. Medium Density Residential District (R-20).
- Chap. 1233. Medium-High Density Residential District (R-15).
- Chap. 1235. High Density Residential District (R-10).
- Chap. 1237. Village Single Family Residential District (R-7).
- Chap. 1239. Multi-Family Residential District (R-M).
- Chap. 1241. Manufactured Home Residential District (R-MH).
- Chap. 1243. Professional Research-Office District (PRO).
- Chap. 1245. Downtown Business District (DB).
- Chap. 1247. Local Business District (LB).
- Chap. 1249. General Business District (GB).
- Chap. 1251. Light Manufacturing District (M-1).
- Chap. 1253. Planned Manufacturing District (PM).
- Chap. 1255. Planned Development Districts.
- Chap. 1257. 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).

CHAPTER 1221 General Regulations

1221.01	Compliance with regulations.	1221.04	Vending machines.
1221.02	Intent of district regulations.	1221.05	Accessory building regulations.
1221.03	Landscaping at driveway and	1221.06	Demolition requirements.
	street intersections.	1221.07	Decks and patios.
		1221.09	Porches and balconies.

1221.01 COMPLIANCE WITH REGULATIONS.

- A. The following regulations for each district established in this Code shall be minimum regulations and shall apply uniformly to each class or kind of structure or land:
 - 1. No building, structure, or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the requirements specified for the district in which it is located, except as provided in Sections 1211.05 to 1211.07.
 - 2. No building or other structure shall be erected or altered:
 - a. To provide for greater height or bulk.
 - b. To accommodate or house a greater number of families.
 - c. To occupy a greater percentage of lot area.
 - d. To have narrower or smaller rear yards, front yards, side yards, or other open spaces.
 - 3. No yard or lot existing at the time of passage of this Code shall be reduced in dimension or area below the minimum requirements, except as provided in Sections 1211.05 to 1211.07. Yards or lots created after the effective date of this Code shall meet at least the minimum requirements, except as provided in Sections 1211.05 to 1211.07.

1221.02 INTENT OF DISTRICT REGULATIONS.

It is the intent of these regulations to identify the permitted uses, the conditionally permitted uses, and general requirements of each district, and other regulations as they pertain, in general, to each zoning district. Conditionally permitted uses are in addition to the permitted uses in each district and as such are governed by other chapters of this Code. Standards and requirements not specifically included for each district but which are contained in this chapter and which are applicable to each district or use shall be applied as if stated in full in each of the chapters in Title Three of this Planning and Zoning Code.

Uses not specifically defined or stated which cannot reasonably be interpreted by the Zoning Inspector or Board of Zoning Appeals as permitted or conditionally permitted in a district shall be referred to the Planning and Zoning Commission for determination, pursuant to Section 1213.01.

1221.03 LANDSCAPING AT DRIVEWAY AND STREET INTERSECTIONS.

- A. To ensure that landscape materials do not constitute a vehicular or pedestrian hazard, a "sight triangle" shall be observed for all street intersections or intersections of driveways and streets. Within this sight triangle, no landscape material, except for grass or other ground cover shall be permitted. Within the sight triangle, trees may be permitted as long as, except during early growth stages, only the tree trunk (no leaves, limbs, etc) is visible between the ground and eight feet above the ground (as measured in relation to the centerline elevation of the intersecting streets), or otherwise does not present a traffic visibility hazard. The sight triangle is defined and illustrated below:
 - 1. Driveway Intersection Sight Triangle. At intersections of driveways with streets, the sight triangle shall be established by locating the intersection of the street curb with the driveway edge, and by measuring from this point a distance of ten feet along the driveway to a point and a distance of twenty feet along the street curb to a point connecting these points.
 - 2. Street Intersection Sight Triangle. At street intersections, the sight triangle shall be formed by measuring at least thirty-five (35) feet along curb lines and connecting these points.

1221.04 VENDING MACHINES.

Vending machines located outside of the main building in excess of three (3) shall require an individual permit per machine to be obtained through the Zoning Inspector. (Ord. 2005-3600. Passed 3-21-05.)

1221.05 ACCESSORY BUILDING REGULATIONS.

A. <u>Number:</u> The maximum number of accessory buildings on a single lot shall not exceed two (2).

B. Size:

The maximum total amount of square footage for accessory buildings on a single lot less than two (2) acres shall be determined by multiplying the gross acreage of the lot by 600, adding 120 and multiplying by two (2). This formula is expressed as an equation below:

((Gross acreage of lot) x 600) + 120) x 2 = Maximum permitted square footage.

Example: $((1 \text{ acre } x 600) + 120) \times 2 = 1,440 \text{ square feet.}$

- 2. Lots two (2) acres or greater in size shall not have a maximum permitted square footage.
- C. <u>Height.</u> The height of an accessory building shall be measured from the floor surface to the peak of the roof in accordance with Section 1205.05.
 - 1. The maximum height of an accessory building for lots less than two (2) acres shall be 18 feet.
 - 2. The maximum height of an accessory building for lots two (2) acres or greater shall be 25 feet.

D. Location:

- 1. An accessory building shall be located even with or behind the front of a principal structure within the side or rear yard.
- 2. An accessory building shall not be located within a recorded easement.
- 3. An accessory building shall not infringe on sanitary or water systems and shall comply with all applicable Licking County Health Department and/or Ohio Environmental Protection Agency regulations.
- 4. An accessory structure shall not be located on a lot without a principal structure.

E. Setbacks:

- 1. An accessory building shall be set back from the side and rear property lines a minimum of five (5) feet for lots less than two (2) acres.
- 2. An accessory building shall be setback from the side and rear property lines a minimum of 10 feet for lots two (2) acres or greater.
- F. <u>Appearance:</u> An accessory building shall have an exterior that is compatible with the principal building on the lot.
- G. <u>Commercial Use:</u> No commercial use shall be permitted from an accessory building on a residentially zoned lot unless approved as part of a home occupation as outlined in Chapter 1267.
- H. Off-Site Impact: An accessory building shall not adversely affect neighboring properties so as to result in its loss of value or interfere with its use or enjoyment. (Ord. 2017-4293. Passed 10-2-17.)

1221.06 DEMOLITION REQUIREMENTS.

All structures over 200 square feet shall be subject to the demolition regulations provided in this Chapter.

(a) Permit Required: No person, firm, corporation, or other entity shall commence demolition of any building, structure, or part thereof over 200 square feet without first obtaining a permit from the Planning and Zoning Department. A demolition permit shall be valid for a period of ninety (90) days after it is issued.

(b) Demolition Requirements:

- (1) All utility services shall be disconnected prior to demolition.
- (2) All demolition debris shall be quickly removed from the site. On-site burning and/or burying of materials is prohibited.

(3) No walls or parts thereof shall remain standing.

- (4) If the building or structure has a basement, the basement shall be filled upon completion of the demolition.
- (5) Immediately following demolition and cleanup, the finished grade shall be restored to original ground level, seeded and strawed.
- (6) The contractor shall schedule work only when the dust from the demolition can be controlled, and if necessary, the contractor shall use water as a means to control the movement of dust. A nuisance shall not be created as a result of dust, noise, or any other means.
- (7) All applicable State and City laws, ordinances, rules, and regulations shall be strictly complied with before, during, and after demolition.
- (8) The City Administrator or their designee may waive any of these requirements for just cause shown.

(c) Application for Zoning Permit:

- (1) A site plan showing the location of the structure to be demolished in respect to property lines, public right-of-way lines, other buildings on site, and off site if applicable, shall be submitted for review to the Planning and Zoning Department.
- (2) A policy or certificate or insurance evidencing that the person, firm, corporation, or other entity performing the demolition has a current policy of liability insurance of not less than \$300,000 for the protection of adjacent owners and other members of the public shall be submitted to the Planning and Zoning Department unless otherwise determined by the City Administrator or their designee.
- (3) Any other information deemed necessary by the City Administrator or their designee. (Ord. 2017-4288. Passed 7-24-17.)

1221.07 DECKS AND PATIOS.

- (a) <u>Permitted:</u> Decks and patios shall be permitted in all zoning districts.
- (b) Setbacks:
 - (1) Residential Districts.
 - i. Front: Decks and patios shall meet all front yard setbacks of the zoning district in which they are located.
 - ii. Rear: Decks and patios shall not extend more than 50 percent into the required rear yard setback of the zoning district in which they are located.
 - iii. Side: Decks and patios shall meet the required side yard setbacks of the zoning district in which they are located or shall not extend further into the side yard setback than the principal structure on the lot, whichever is less.

(2) Commercial and Industrial Districts.

i. Front: Decks and patios shall meet all front yard setbacks of the zoning district in which they are located.

- ii. Rear: Decks and patios shall not extend more than 50 percent into the required rear yard setback of the zoning district in which they are located.
- iii. Side: Decks and patios shall not extend more than 50 percent into the required side yard setback of the zoning district in which they are located.
- (c) <u>Height:</u> The floor of decks and patios shall not be higher than the highest floor level of the principal structure on the lot.
- (d) Appearance: Decks and patios shall have a finish that is compatible with the principal structure on the lot to be determined by the Zoning Inspector.
 - (e) <u>Location</u>:

(1) Decks and patios shall not be located in a recorded easement.

- (2) Decks and patios shall not infringe on sanitary or water systems and shall comply with all applicable Licking County Health Department and/or Ohio Environmental Protection Agency regulations.
- (f) <u>Commercial Use:</u> No commercial use shall be permitted from decks or patios on a residentially zoned lot unless approved as part of a home occupation pursuant to Chapter 1267.
- (g) <u>Off-Site Impacts:</u> Decks and patios shall not adversely affect neighboring properties so as to result in its loss of value to be determined by the Zoning Inspector.
- (h) <u>Materials</u>: All materials for decks and patios shall be approved materials recognized by the Ohio Building Code.
- (i) <u>Maintenance</u>: Decks and patios shall be maintained in good repair at all times. (Ord. 2016-4267. Passed 10-3-16.)

1221.09 PORCHES AND BALCONIES.

- (a) <u>Permitted:</u> Porches and balconies shall be permitted in all zoning districts.
- (b) <u>Setbacks:</u> Porches and balconies shall meet all required setbacks for a principal structure in the zoning district in which they are located.
- (c) <u>Height:</u> The floor of a porch or balcony shall not be higher than the highest floor level of the principal structure on the lot.
- (d) <u>Appearance:</u> Porches and balconies shall have a finish that is compatible with the principal structure on the lot to be determined by the Zoning Inspector.
 - (e) Location:
 - (1) Porches and balconies shall not be located in a recorded easement.
 - Porches and balconies shall not infringe on sanitary or water systems and shall comply with all applicable Licking County Health Department and/or Ohio Environmental Protection Agency regulations.

- (f) <u>Commercial Use:</u> No commercial use shall be permitted from a porch or balcony on a residentially zoned lot unless approved as part of a home occupation pursuant to Chapter 1267.
- (g) Off-Site Impacts: Porches and balconies shall not adversely affect neighboring properties so as to result in its loss of value to be determined by the Zoning Inspector.
- (h) <u>Materials</u>: All materials for porches and balconies shall be approved materials recognized by the Ohio Building Code.
- (i) <u>Maintenance:</u> Porches and balconies shall be maintained in good repair at all times. (Ord. 2016-4267. Passed 10-3-16.)

CHAPTER 1223 Distressed Properties

1223.01	Purpose.	1223.06	Joint responsibility.
1223.02	Definitions.	1223.07	Enforcement.
1223.03	Applicability.	1223.08	Abatement by the person
1223.04	Declaration of distressed		in charge.
	property.	1223.09	Abatementplan.
1223.05	Maintenance and security	1223.10	Exceptions.
	standards.	1223.11	Supplemental code provisions.
		1223.99	Penalty.

1223.01 PURPOSE.

It is the intent and purpose of this chapter to protect the health, safety and welfare of the citizens of the City, reduce the potential for economic decline as a result of public nuisances on improved parcels, protect aesthetic standards deemed essential by the Pataskala community, and to preserve and protect property values within the City of Pataskala. (Ord. 2020-4358. Passed 3-2-20.)

1223.02 DEFINITIONS.

<u>Building:</u> Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property.

Enforcing Official: The City Administrator or their designee. Improved Property: Property which has located upon it a building, structure or other physical improvements.

<u>Inspection:</u> A close viewing of the property and the exterior of any structures located thereon from any legal vantage point and includes viewing of any interior portions of the structure which are visible from the outside of the structure.

<u>Litter:</u> Garbage, junk, refuse, and rubbish, and all other waste material including vegetative debris, which, if thrown, deposited or accumulated as prohibited in this chapter, is detrimental to the public health, safety and welfare and can be classified as a nuisance.

<u>Nuisance:</u> Any item, thing, manner, or condition whatsoever that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property or could otherwise be a hazard to the public health, safety or general welfare.

Owner: Every person or entity which, alone or jointly with others, has legal or equitable title to any property, dwelling, dwelling unit, mobile dwelling unit, building, or structure.

<u>Person in Charge:</u> A property owner, agent, occupant, lessee, contract purchaser, or other person having possession or control of property.

Property: Any real property, or portion thereof, located in the City of Pataskala.

<u>Structure:</u> Anything constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground.

<u>Vacant:</u> A building that appears to be partially or substantially empty of furnishings or appliances or otherwise legally occupied, or exists with any condition that, on its own or combined with other conditions present, would lead a reasonable person to believe that there is no intent or actions by the current owner or person in charge to occupy in the immediate future a property or building. (Ord. 2020-4358. Passed 3-2-20.)

1223.03 APPLICABILITY.

The provisions of this chapter shall apply to the following properties within the City of Pataskala:

- (a) All parcels located within a platted subdivision
- (b) All commercially zoned parcels
- (c) All R-M Multi-Family Residential zoned parcels
- (d) All industrially zoned parcels
- (e) All R-MH Manufactured Home Residential zoned parcels
- (f) All parcels one and one-half (1.5) acres or less.

(Ord. 2020-4358. Passed 3-2-20.)

1223.04 DECLARATION OF DISTRESSED PROPERTY.

- (a) Any improved property within the City of Pataskala upon which is located an occupied or vacant building, as defined in this division, and which has located upon or within such improved property a nuisance condition which constitutes, or may constitute, a threat to the health, safety or welfare of any person, as determined by the enforcing official, is hereby declared a distressed property and is in violation of this chapter.
- (b) Any improved property within the City of Pataskala that is in a condition which fails to meet the minimum maintenance requirements and security standards set forth in Section 1223.05, based upon the inspection of the enforcement official from any public right-of-way or adjacent property, where legally authorized, is hereby declared to be a distressed property and is in violation of this chapter. (Ord. 2020-4358. Passed 3-2-20.)

1223.05 MAINTENANCE AND SECURITY STANDARDS.

- (a) Maintenance requirements.
 - (1) Improved property shall be maintained in accordance with the terms and conditions set forth herein, all applicable City codes and ordinances, state laws, relevant sanitary codes, and the Ohio Building Code concerning external or visible maintenance.

- (2) All front, side and rear yards shall be free of litter, refuse and debris, except temporary storage or placement of refuse and debris for appropriate disposal.
- (3) Pools, fountains, hot tubs and spas shall be maintained so the water contained within them remains free and clear of hazards, litter, debris and shall not produce noxious odors nor act as a breeding ground for mosquitos. Pools, fountains, hot tubs and spas shall comply with the requirements of all applicable city codes and ordinances and the Ohio Building Code.
- (4) The exterior of a structure shall be kept and maintained in good repair, structurally sound and sanitary without excessive peeling and chipped paint to a degree that it detracts from the structure when viewed from an adjacent property, where authorized, or any public right-of-way or becomes a hazard to the public health, safety or general welfare. Walls shall be free of holes, loose or rotten wood, be weatherproofed and coated with paint, siding or similar protection to prevent deterioration.
- (5) The roof and flashing shall be sound, tight and not have defects that admit leaks. Roof drains, gutters and downspouts shall be maintained in good repair and properly affixed. Roof water shall not be discharged in a manner that creates a nuisance.
- (6) Every exterior stair, ramp, landing, balcony, porch, deck or other walking surface, including sidewalks, shall be maintained and kept in sound condition and minimally safe repair.
- (7) The roof, siding, awnings, chimneys, sheds, and other exterior structural elements of a property shall be kept and maintained in good repair and anchored in such a manner as not to become a flying projectile in high winds.

(b) <u>Security requirements.</u>

- (1) Improved property that is determined to have a vacant building upon inspection shall be kept in a secure manner so as to be kept inaccessible to wildlife or unauthorized persons. A secure manner shall include, but not limited to, the closure and locking of all windows, doors, gates and other building or structure openings of such size that may allow access to the interior of a building or structure. Broken doors and window shall be secured and repaired or completely replaced within ten days of being damaged to the point that such door or window does not secure the building.
- (2) Any excavations, swimming pools, hot tubs, spas, at grade fountains or other attractive nuisances shall be properly secured and comply with City codes and ordinances and the Ohio Building Code.

 (Ord. 2020-4358. Passed 3-2-20.)

1223.06 JOINT RESPONSIBILITY.

If more than one person or entity is a person in charge of the property, then all such persons or entities shall be jointly and severally liable for abating the distressed property violation. (Ord. 2020-4358. Passed 3-2-20.)

1223.07 ENFORCEMENT.

- (a) If it is determined upon inspection that a violation of this chapter exists, the enforcing official shall cause written notice to be served upon the person in charge, notifying them that the property has been declared a distressed property and is in violation of this chapter.
- (b) The enforcing official shall post notice on the violating property and shall send notice to the person in charge by regular U.S. mail giving ten days to correct the violation. For purposes of this chapter, service of the notice is complete upon such mailing. (Ord. 2020-4358. Passed 3-2-20.)

1223.08 ABATEMENT BY THE PERSON IN CHARGE.

Within ten days upon service of the notice, the person in charge shall remove or correct the nuisance or violation or shall apply for an abatement plan as provided in Section 1223.09 of this chapter. The violation shall be enforced as authorized in this chapter in the event that:

(a) The nuisance is not corrected within the period of time specified; or

(b) An abatement plan is not applied for, as required; or

- (c) In the event the abatement plan is denied by the enforcing official and a date for abatement is specified but not complied with; or
- (d) If an approved abatement plan is not complied with as to timeframes or requirements. (Ord. 2020-4358. Passed 3-2-20.)

1223.09 ABATEMENT PLAN.

- (a) Should the violation to be remedied be costly or extensive, the person in charge or their designee may apply for an abatement plan, in writing, with the enforcing official. This application shall include the following:
 - (1) Justification for the need of an abatement plan including, but not limited to, excessive costs or extensive work to remedy, and
 - (2) A detailed plan describing each violation to be remedied; and
 - (3) A timeline for completing each violation to be remedied.
- (b) The enforcing official shall review the application and either approve, approve with conditions, or deny the abatement plan within ten days of receipt of the abatement plan. Written notice of the enforcing official's decision shall be provided to the person in charge or their designee.
- (c) The person in charge or their designee shall apply for any and all of the requisite zoning and building permits, if any, within fourteen days of the issuance of an approved abatement plan and follow all requirements and timeframes of the approved abatement plan. Failure to do so shall render the approved abatement plan null and void, unless an extension or amendment is approved, in writing, by the enforcing official. (Ord. 2020-4358. Passed 3-2-20.)

1223.10 EXCEPTIONS.

This chapter shall not apply to a building and/or property that is actively undergoing construction or repair as evidenced by a valid zoning and/or building permit and the person in charge is progressing diligently to complete the repair or construction. This exception does not apply to requirements relevant to public safety and health concerns. (Ord. 2020-4358. Passed 3-2-20.)

1223.11 SUPPLEMENTAL CODE PROVISIONS.

This chapter is supplemental to all other provisions and requirements of the Pataskala Code or Ordinances and nothing herein shall be considered to limit, in any way, the enforcement of any condition or violation through any other provision of the Code of Ordinances, the Ohio Building Code or any other applicable state or local law. (Ord. 2020-4358. Passed 3-2-20.)

1223.99 PENALTY.

Whoever violates any provision of this chapter shall be subject to the penalties in Section 1209.99 of the Pataskala Code of Ordinances. (Ord. 2020-4358. Passed 3-2-20.)

CHAPTER 1225 Agricultural District (AG)

1225.01 Purpose.1225.02 Short name.1225.03 Permitted uses.

1225.04 Conditionally permitted uses. 1225.05 General requirements of the AG District.

CROSS REFERENCES

Animal control - see GEN. OFF. Ch. 505 Agriculture defined - see P. & Z. 1203.03 Uses defined by the North American Industrial Classification System (NAICS) - see P. & Z. Ch. 1265 Fences - see P. & Z. Ch. 1279

1225.01 PURPOSE.

The purpose of the Agricultural District is to preserve and protect the decreasing amount of prime agricultural land, preserve and protect open space, wildlife habitat, forestry, water resources, and rural lifestyle. This district also is established to control the indiscriminate infiltration of urban development in agricultural areas which adversely affects agricultural operations. Land within this district shall not be viewed as land waiting to be developed, but instead, land that is currently being used for a viable purpose intended by this Code.

1225.02 SHORT NAME.

The short name and map symbol of the Agricultural district is AG.

1225.03 PERMITTED USES.

- 1. Agriculture.
- 2. Single-family dwellings.
- 3. Public parks and playgrounds.
- 4. Private stables and private kennels.
- 5. Accessory buildings and structures and their related uses.
- 6. Small-scale animal husbandry.
- 7. All uses marked as "Permitted Uses" in the Agricultural District as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1225.04 CONDITIONALLY PERMITTED USES.

A conditional use permit may be issued in accordance with Chapter 1215, and the other provisions of these regulations provided that the applicant can demonstrate that the proposed use is consistent with those general principles outlined in Section 1215.04 as well as any additional standards in accordance with any or all of those standards found in Section 1215.05 or other conditions as required by the Board of Zoning Appeals or as noted in the following descriptions:

- 1. Commercial stables and commercial kennels, if they are no less than 20 acres.
- 2. Veterinaries/animal hospitals or clinic.
- 3. Agricultural implement sales and repairs.

- 4. Feed and seed sales.
- 5. Fertilizer and agricultural chemical sales.
- 6. Home occupations. Refer to Section 1215.05B.2. and Chapter 1267.
- 7. Transient uses of the land (flea markets, carnivals, or other uses involving the use of mobile, non-permanent structures), provided such land use activity ceases to exist and any non-permanent structures are removed within thirty (30) days. The BZA shall establish a maximum number of days per year for the transient use. Refer to Section 1215.05A.3., 9. and 10.
- 8. Mining of oil or natural gas. Refer to Section 1215.05D.
- 9. Airports heliports (private and governmental). Refer to Section 1215.05B.2.
- 10. Agriculture (provided that the operation is on less than 5 acres).
- 11. Religious institutions.
- 12. All uses marked as "Conditional Uses" in the Agricultural District as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1225.05 GENERAL REQUIREMENTS OF THE AG DISTRICT.

- A. <u>Maximum Building Height</u>: Forty (40) feet for buildings. Silos, windmills, or any other structure listed as a permitted, accessory, or conditional use may exceed this height provided such structures maintain a distance equal to their height to any adjacent property or zoning district. No structure shall exceed a maximum of 75 feet in height above grade.
- B. Lot Area and Width: Every lot shall have a minimum width of 250 feet throughout and a minimum lot area of not less than ten (10) acres, exclusive of road right-of-way.
 - C. Setbacks and Yards. For all lots of record, see Section 1285.05C.
 - 1. Front Yard: There shall be a front yard of not less than 100 feet in depth.
 - 2. Side Yard: There shall be side yards of not less than 50 feet (each side) for dwelling structures.
 - 3. Rear Yard: There shall be a rear yard of not less than 100 feet for dwelling structures.
 - 4. Corner Lots: The principal building and its accessory structures shall have the same minimum setback distance from all street right-of-way lines as required for the front yard.
- D. <u>Maximum Lot Occupancy</u>: The maximum percentage of the total lot area which may be occupied by both principal and accessory buildings for non-residential uses shall be 15%.
 - E. Parking Requirements: Parking requirements shall be as regulated in Chapter 1291.
 - F. Signs: Signs shall be as regulated in Chapter 1295.
- G. <u>Dwelling Area</u>: Dwellings or structures shall have a minimum area of living space by outside dimensions, exclusive of porches, garages, and cellars or basements as herein specified.
 - 1. Single-Family Dwelling

With basement

1,300 square feet

Without basement

1,450 square feet

Basements are not required for any single family dwelling. If a basement is included as part of the home plans, at the time of permitting, then a minimum square footage of 600 square feet of floor area shall be required.

Single-family dwellings shall not be less than 24 feet in width and depth.

- H. <u>Health Regulations</u>: The single-family dwelling unit must meet the requirements of the Board of Health having jurisdiction within the City and/or those of other authorities before being issued zoning permits.
- I. <u>Accessory Uses or Structures</u>: Editor's Note: Former subsection I. was deleted by Ordinance 2015-4228.
- J. <u>Agricultural Exemptions</u>: Ohio R.C. 3781.06 confers no power on any board of zoning appeals to prohibit the use of land for agricultural purposes or the construction or use of buildings or structures incident to the use of agricultural purposes of the land on which such buildings or structures are located, and no zoning certificate shall be required for any such building or structure. (Ord. 2006-3733. Passed 12-18-06.)

CHAPTER 1227 Rural Residential District (RR)

1227.01 Purpose. 1227.02 Short name. 1227.03 Permitted uses. 1227.04 Conditionally permitted uses. 1227.05 General requirements of the RR District.

CROSS REFERENCES

General prohibitions - see GEN. OFF. Ch. 521

Definitions - see P. & Z. 1203.03

Permitted and Conditional Uses - see P. & Z. Ch. 1225.03, 1225.04, 1227.03, 1227.04, 1229.03, 1229.04, 1231.03, 1231.04, 1233.03, 1233.04, 1235.03, 1235.04, 1237.03, 1237.04, 1239.03, 1239.04, 1241.03, 1243.03, 1243.04, 1245.03, 1245.04, 1247.03, 1247.04, 1249.03, 1249.04, 1251.03, 1251.04, 1253.03, 1253.04

1227.01 PURPOSE.

The purpose of the Rural Residential District (RR) is to encourage the establishment of low density single-family residential development along public roads so as to limit the number of curbcuts and thereby minimize traffic interference along said roads. The single-family dwelling unit must meet the County Board of Health's requirements and/or that of other authorities before being issued sewage and zoning permits.

1227.02 SHORT NAME.

The short name and map symbol of the Rural Residential District is RR.

- 1. Agriculture (provided that the operation is on five acres or more).
- 2. Single-family dwellings.
- 3. Public parks and playgrounds.
- 4. Cemeteries. (Ord. 2008-3843. Passed 7-21-08.)
- 5. Accessory buildings and structures and their related uses. (Ord. 2015-4228. Passed 5-18-15.)
- All uses marked as "Permitted Uses" in the Rural Residential District as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

A conditional use permit may be issued in accordance with Chapter 1215, and the other provisions of these regulations provided that the applicant can demonstrate that the proposed use is consistent with those general principles outlined in Section 1215.04 as well as any additional standards in accordance with any or all of those standards found in Section 1215.05 or other conditions as required by the Board of Zoning Appeals or as noted in the following descriptions:

- 1. Private stables and private kennels, provided they are on greater than five acres.
- 2. Home occupations. Refer to Section 1215.05B.2 and Chapter 1267.
- 3. Religious institutions.
- 4. Public and private schools for academic instruction either state accredited or approved by the Board of Zoning Appeals. Refer to Section 1215.05E as applies.
- 5. Governmental Buildings.
- 6. All uses marked as "Conditional Uses" in the Rural Residential District (RR)as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1227.05 GENERAL REQUIREMENTS OF THE RR DISTRICT.

- A. <u>Maximum Building Height:</u> No building shall be erected or enlarged to exceed 35 feet.
- B. <u>Lot Area and Width:</u> Every lot shall have a minimum width of 250 feet throughout and a minimum lot area of not less than five (5) acres exclusive of road right-of-way.
- C. Setbacks and Yards: For all lots of record, see Section 1285.05C.
 - 1. Front Yard: There shall be a front yard of not less than 100 feet in depth.
 - 2. Side Yard: There shall be side yards of not less than 50 feet (each side) for dwelling structures.
 - 3. Rear Yard: There shall be a rear yard of not less than 100 feet for dwelling structures.
 - 4. Corner Lots: The principal building and its accessory structures shall have the same minimum setback distance from all street right-of-way lines as required for the front yard.
- D. <u>Maximum Lot Occupancy:</u> The maximum percentage of the total lot area which may be occupied by both principal and accessory buildings for non-residential uses shall be 15%.
- E. <u>Parking Requirements:</u> Parking requirements shall be as regulated in Chapter 1291.
- F. Signs: Sign shall be as regulated in Chapter 1295.
- G. <u>Dwelling Area:</u> Dwellings or structures shall have a minimum area of living space by outside dimensions, exclusive of porches, garages and cellars or basements as herein specified.
 - 1. Single-Family Dwelling With basement

1,300 square feet

Without basement

Basements are not required for any single family dwelling. If a basement is included as part of the home plans, at the time of permitting, then a minimum square footage of 600 square feet of floor area shall be required. Single-family dwellings shall not be less than the 24 feet in width and depth.

H. <u>Health Regulations:</u> The single-family dwelling unit must meet the requirements of the Board of Health having jurisdiction within the City and/or those of other authorities before being issued zoning permits. (Ord. 2006-3733. Passed 12-18-06.)

CHAPTER 1229 Medium-Low Density Residential District (R-87)

1229.01 Purpose. 1229.02 Short name. 1229.03 Permitted uses.

1229.04 Conditionally permitted uses. 1229.05 General requirements of the R-87 District.

CROSS REFERENCES

General prohibitions - see GEN. OFF. Ch. 521

Definitions - see P. & Z. 1203.03

Permitted and Conditional Uses - see P. & Z. Ch. 1225.03, 1225.04, 1227.03, 1227.04, 1229.03, 1229.04, 1231.03, 1231.04, 1233.03, 1233.04, 1235.03, 1235.04, 1237.03, 1237.04, 1239.03, 1239.04, 1241.03, 1243.03, 1243.04, 1245.03, 1245.04, 1247.03, 1247.04, 1249.03, 1249.04, 1251.03,

1251.04, 1253.03, 1253.04

Home occupations - see P. & Z. Ch. 1267

Fences - see P. & Z. Ch. 1279

Landscaping and screening - see P. & Z. Ch. 1283

Signs - see P. & Z. Ch. 1295

Swimming pools - see P. & Z. Ch. 1297

1229.01 PURPOSE.

The purpose of the R-87 District is to encourage the establishment of low-to-medium density single-family dwellings not to exceed one dwelling unit per two acres. The R-87 Districts are associated with those areas to be served by collector, local, and cul-de-sac streets.

1229.02 SHORT NAME.

The short name and map symbol of the Medium-Low Density Residential District is R-87.

1229.03 PERMITTED USES.

1. Single-family dwellings.

- 2. Public parks and playgrounds provided that any principal public building or public swimming pool shall be located not less than 100 feet from any other lot in any R-District. (Ord. 2008-3843. Passed 7-21-08.)
- 3. Accessory buildings and structures and their related uses. (Ord. 2015-4228. Passed 5-18-15.)

4. Agriculture (on more than five acres).

5. All uses marked as "Permitted Uses" in the Medium-Low Density Residential District (R-87) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

A conditional use permit may be issued in accordance with Chapter 1215, and the other provisions of these regulations provided that the applicant can demonstrate that the proposed use is consistent with those general principles outlined in Section 1215.04 as well as any additional standards in accordance with any or all of those standards found in Section 1215.05 or other conditions as required by the Board of Zoning Appeals and conditions referred to in the following descriptions:

1. Home occupations. Refer to Section 1215.05B.2. and Chapter 1267.

2. Religious institutions.

- 3. Public and private schools for academic instruction either state accredited or approved by the Board of Zoning Appeals. Refer to Sections 1215.05A. and E. (as applies).
- 4. Libraries, museums, art galleries. Refer to Section 1215.05A.13., and Section 1215.05A. (as applies), and Section 1215.05E. (as applies).

5. Governmental buildings. Refer to Sections 1215.05A, and E. (as applies).

6. Private stables/kennels as an accessory use, provided the portion of any lot or tract in such use shall not be less than five acres in area.

7. Agriculture (on less than five acres).

8. All uses marked as "Conditional Uses" in the Medium-Low Density Residential District (R-87) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1229.05 GENERAL REQUIREMENTS OF THE R-87 DISTRICT.

- A. <u>Maximum Building Height</u>: No building shall be erected or enlarged to exceed 40 feet.
- B. <u>Lot Area and Width</u>: Every lot shall have a minimum width of 200 feet throughout the lot, and a minimum lot area of not less than two acres (87,120 sq. ft.), exclusive of road right-of-way.
 - C. <u>Setbacks and Yards</u>: For all lots of record, see Section 1285.05C.
 - 1. Front Yard: There shall be a front yard of not less than 75 feet in depth.
 - 2. Side Yard: Side yards shall not be less than 25 feet on each side.
 - 3. Rear Yard: There shall be a rear yard of not less than 75 feet.
 - 4. Corner Lots: The principal building and its accessory structures shall have the same minimum setback distance from all street right-of-way lines as required for the front yard.
- D. <u>Maximum Lot Occupancy</u>: The maximum percentage of the total lot area which may be occupied by both principal and accessory buildings for non-residential uses shall be 15%.
 - E. Parking Requirements: Parking requirements shall be as regulated in Chapter 1291.
 - F. Signs: Signs shall be as regulated in Chapter 1295.
- G. <u>Dwelling Area</u>: Dwellings or structures shall have a minimum area of living space by outside dimensions, exclusive of porches, garages, and cellars or basements as herein specified.

1. <u>Single-Family Dwelling</u>

With basement Without basement

1,300 square feet 1,450 square feet

Basements are not required for any single family dwelling. If a basement is included as part of the home plans, at the time of permitting, then a minimum square footage of 600 square feet of floor area shall be required.

Single-family dwellings shall not be less than 24 feet in width and depth.

H. <u>Health Regulations</u>: The single-family dwelling unit must meet the requirements of the Board of Health with jurisdiction in the City and/or those of other authorities before being issued zoning permit. (Ord. 2006-3733. Passed 12-18-06.)

CHAPTER 1231 Medium Density Residential District (R-20)

1231.01	Purpose.	1231.04	Conditionally permitted uses.
1231.02	Short name.	1231.05	General requirements of the R-
1231.03	Permitted uses.		20 District.

CROSS REFERENCES

General prohibitions - see GEN. OFF. Ch. 521

Definitions - see P. & Z. 1203.03

Permitted and Conditional Uses - see P. & Z. Ch. 1225.03, 1225.04, 1227.03, 1227.04, 1229.03, 1229.04, 1231.03, 1231.04, 1233.03, 1233.04, 1235.03, 1235.04, 1237.03, 1237.04, 1239.03, 1239.04, 1241.03, 1243.03, 1243.04, 1245.03, 1245.04, 1247.03, 1247.04, 1249.03, 1249.04, 1251.03,

1251.04, 1253.03, 1253.04 Home occupations - see P. & Z. Ch. 1267

Fences - see P. & Z. Ch. 1279

Landscaping and screening - see P. & Z. Ch. 1283

Signs - see P. & Z. Ch. 1295

Swimming pools - see P. & Z. Ch. 1297

1231.01 PURPOSE.

The purpose of the R-20 District is to permit the establishment of medium-density single family units, and to serve as a transition district between medium-low density to medium density. The R-20 Districts are associated with those areas to be served by local and cul-de-sac streets. All dwelling units and uses must be supplied with public water and sewer.

1231.02 SHORT NAME.

The short name and map symbol of the Medium Density Residential District is R-20.

1231.03 PERMITTED USES.

1. Single family detached dwellings.

- 2. Public parks and playgrounds provided that any principal building or swimming pool shall be located not less than 100 feet from any other lot in any R-District.
- 3. Accessory buildings and structures and their related uses.
- 4. Essential services.
- 5. Dishes or other devices for the reception or transmission of electromagnetic signals, provided such device is for the sole use of the occupants of the principal use of the property on which the device is located, provided such device meets the requirements of Chapter 1293.
- 6. All uses marked as "Permitted Uses" in the Medium Density Residential District (R-20) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

A conditional use permit may be issued in accordance with Chapter 1215, and the other provisions of these regulations provided that the applicant can demonstrate that the proposed use is consistent with those general principles outlined in Section 1215.04 as well as any additional standards in accordance with any or all of those standards found in Section 1215.05 or other conditions as required by the Board of Zoning Appeals and conditions referred to in the following descriptions:

1. Home occupations. Refer to Section 1215.05B.2. and Chapter 1267.

2. Daycare facilities, institutions, or nursing homes located not less than 50 feet from any other lot in any R-District. Refer to Section 1215.05B.10. and E.8. (as applies).

3. Religious institutions.

- 4. Public and private schools for academic instruction either state accredited or approved by the Board of Zoning Appeals. Refer to Section 1215.05A. and E. (as applies).
- 5. Libraries, museums, art galleries, and recreational facilities. Refer to Section 1215.05E. as applies.

6. Governmental buildings. Refer to Section 1215.05A. and E. (as applies).

7. All uses marked as "Conditional Uses" in the Medium Density Residential District (R-20) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1231.05 GENERAL REQUIREMENTS OF THE R-20 DISTRICT.

- A. <u>Maximum Building Height</u>: No building shall be erected or enlarged to exceed 35 feet.
- B. <u>Lot Area and Width</u>: Every lot shall have a minimum width of 100 feet throughout the lot, and a minimum lot area of not less than 20,000 sq. ft., exclusive of road right-of-way. (Ord. 2006-3733. Passed 12-18-06.)
- C. <u>Setbacks and Yards (Principal Structure):</u> For all lots of record, see Section 1285.05C.
 - 1. Front Yard: There shall be a front yard of not less than 50 feet in depth.
 - 2. Side Yard: Side yards shall not be less than 20 feet on each side.
 - 3. Rear Yard: There shall be a rear yard of not less than 25 feet.
 - 4. Corner Lots: The principal building and its accessory structures shall have the same minimum setback distance from all street right-of-way lines as required for the front yard. (Ord. 2008-3884. Passed 1-5-09.)
- D. <u>Maximum Lot Occupancy</u>: The maximum percentage of the total lot area which may be occupied by both principal and accessory buildings for non-residential uses shall be 25%.
- E. <u>Parking Requirements</u>: Parking requirements shall be as regulated in Chapter 1291.
 - F. Signs: Signs shall be as regulated in Chapter 1295.
- G. <u>Dwelling Area</u>: Dwellings or structures shall have a minimum area of living space by outside dimensions, exclusive of porches, garages, and cellars or basements as herein specified.

1. <u>Single-Family Dwelling</u>

With basement
Without basement

1,300 square feet 1,450 square feet

Basements are not required for any single family dwelling. If a basement is included as part of the home plans, at the time of permitting, then a minimum square footage of 600 square feet of floor area shall be required. Single-family dwellings shall not be less than 24 feet in width and depth.

- H. <u>Health Regulations</u>: The single-family dwelling unit must meet the requirements of the Board of Health with jurisdiction in the City and/or those of other authorities before being issued zoning permits. (Ord. 2006-3733. Passed 12-18-06.)
- I. Open/Play Area: For each five (5) lots or portion thereof, there shall be provided an open green space or park/recreation area of not less than 1,500 square feet in size. Recreational and/or play equipment shall be provided pursuant to a proposal submitted by the developer and shall be subject to the approval of the Director of Planning. Examples include, but are not limited to, park benches, picnic tables, play sets, basketball and tennis courts. Such area shall be maintained in perpetuity by the owner of the lot of record. Landscaping, screening, required setback areas, and parking areas shall not be included in the calculation of the open/play area. (Ord. 2006-3733. Passed 12-18-06; Ord. 2015-4228. Passed 5-18-15.)

CHAPTER 1233 Medium-High Density Residential District (R-15)

	Purpose.		Conditionally permitted uses.
1233.02	Short name.	1233.05	General requirements of the
1233.03	Permitted uses.		R-15 District.

CROSS REFERENCES

General prohibitions - see GEN. OFF. Ch. 521

Definitions - see P. & Z. 1203.03

Permitted and Conditional Uses - see P. & Z. Ch. 1225.03, 1225.04, 1227.03,

1227.04, 1229.03, 1229.04, 1231.03, 1231.04, 1233.03, 1233.04,

1235.03, 1235.04, 1237.03, 1237.04, 1239.03, 1239.04, 1241.03,

1243.03, 1243.04, 1245.03, 1245.04, 1247.03, 1247.04, 1249.03,

1249.04, 1251.03, 1251.04, 1253.03, 1253.04 Home occupations - see P. & Z. Ch. 1267

Fences - see P. & Z. Ch. 1279

Landscaping and screening - see P. & Z. Ch. 1283

Signs - see P. & Z. Ch. 1295

Swimming pools - see P. & Z. Ch. 1297

1233.01 PURPOSE.

The purpose of the R-15 District is to permit the establishment of medium-high density single family units, and to serve as a transition district between medium density and high density. The R-15 Districts are associated with those areas to be served by local and cul-de-sac streets. All dwelling units and uses must be supplied with public water and sewer.

1233.02 SHORT NAME.

The short name and map symbol of the Medium-High Density Residential District is R-15.

- Single family detached dwellings.
- Public parks and playgrounds provided that any principal building or swimming 2. pool shall be located not less than 100 feet from any other lot in any R-District.
- Accessory buildings and structures and their related uses. 3.
- Essential services. 4.
- Dishes or other devices for the reception or transmission of electromagnetic signals, provided such device is for the sole use of the occupants of the principal use of the property on which the device is located, provided such device meets the requirements of Chapter 1293.
- 6. All uses marked as "Permitted Uses" in the Medium-High Density Residential District (R-15) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

A conditional use permit may be issued in accordance with Chapter 1215, and the other provisions of these regulations provided that the applicant can demonstrate that the proposed use is consistent with those general principles outlined in Section 1215.04 as well as any additional standards in accordance with any or all of those standards found in Section 1215.05 or other conditions as required by the Board of Zoning Appeals and conditions referred to in the following descriptions:

- 1. Home occupations. Refer to Section 1215.05B.2. and Chapter 1267.
- 2. Daycare facilities, institutions, or nursing homes located not less than 50 feet from any other lot in any R-District. Refer to Section 1215.05B.10. and E.8. (as applies).

3. Religious institutions.

- 4. Public and private schools for academic instruction either state accredited or approved by the Board of Zoning Appeals. Refer to Section 1215.05A. and E. (as applies).
- 5. Libraries, museums, art galleries, and recreational facilities. Refer to Section 1215.05E. as applies.
- 6. Governmental buildings. Refer to Section 1215.05A. and E. (as applies).

7. Two-Family Residential Dwelling.

8. All uses marked as "Conditional Uses" in the Medium-High Density Residential District (R-15) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1233.05 GENERAL REQUIREMENTS OF THE R-15 DISTRICT.

- A. <u>Maximum Building Height</u>: No building shall be erected or enlarged to exceed 35 feet.
- B. <u>Lot Area and Width</u>: Every lot for a single-family dwelling shall have a minimum width of at least 100 feet throughout and a minimum lot area of not less than 15,000 square feet. All lot area measurements shall be exclusive of road right-of-way.
 - C. Setbacks and Yards: For all lots of record, see Section 1285.05C.
 - 1. Front Yard: There shall be a front yard of not less than 35 feet in depth.
 - 2. <u>Side Yard</u>: There shall be a side yard of not less than 20 feet on each side.
 - 3. Rear Yard: There shall be a rear yard of not less than 25 feet.
 - 4. Corner Lots: The principal building and its accessory structures shall have the same minimum setback distance from all street right-of-way lines as required for the front yard.
- D. <u>Maximum Lot Occupancy</u>: The maximum percentage of the total lot area which may be occupied by both principal and accessory buildings for non-residential uses shall be 30%.
- E. <u>Parking Requirements</u>: Parking requirements shall be as regulated in Chapter 1291.
 - F. Signs: Signs shall be as regulated in Chapter 1295.

G. <u>Dwelling Area</u>: Dwellings or structures shall have a minimum area of living space by outside dimensions, exclusive of porches, garages, and cellars or basements as herein specified.

1. Single-Family:

With basement 1,300 square feet Without basement 1,450 square feet

2. Two-Family:

With basement 1050 square feet per dwelling unit Without basement 1200 square feet per dwelling unit

Basements are not required for any single-family or two-family dwellings. If basement is included as part of the plans, at the time of permitting, then a minimum square footage of 600 square feet of floor area shall be required for single-family dwellings and 375 square feet of floor area shall be required for each unit of a two-family dwelling.

Single/two-family dwellings shall not be less than 24 feet in width and depth.

- H. <u>Health Regulations</u>: The single-family dwelling unit must meet the requirements of the Board of Health with jurisdiction in the City and/or those of other authorities before being issued zoning permits.
- I. <u>Conversion of Dwelling to More Units</u>: A residence may not be converted to accommodate an increased number of dwelling units unless all of the following criteria are met:
 - 1. The yard dimensions still meet the yard dimensions required for new structures in this zoning district;
 - 2. The lot area per family equals the lot area requirements for new structures in this zoning district;
 - 3. The floor area per dwelling unit is not reduced to less than that which is required for new construction in this zoning district; and
 - 4. The conversion is in compliance with all other relevant codes for such structures.
- J. Open/Play Area: For each five (5) lots or portion thereof, there shall be provided an open green space or park/recreation area of not less than 1,500 square feet in size. Recreational and/or play equipment shall be provided pursuant to a proposal submitted by the developer and shall be subject to the approval of the Director of Planning. Examples include, but are not limited to, park benches, picnic tables, play sets, basketball and tennis courts. Such area shall be maintained in perpetuity by the owner of the lot of record. Landscaping, screening, required setback areas, and parking areas shall not be included in the calculation of the open/play area. (Ord. 2006-3733. Passed 12-18-06; Ord. 2015-4228. Passed 5-18-15.)

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CHAPTER 1235 High Density Residential District (R-10)

1235.01 P			Conditionally permitted uses.
1235.02 Si 1235.03 P	nort name. Termitted uses.	1235.05	General requirements of the R-10 District.

CROSS REFERENCES

General prohibitions - see GEN. OFF. Ch. 521

Definitions - see P. & Z. 1203.03

Permitted and Conditional Uses - see P. & Z. Ch. 1225.03, 1225.04, 1227.03,

1227.04, 1229.03, 1229.04, 1231.03, 1231.04, 1233.03, 1233.04,

1235.03, 1235.04, 1237.03, 1237.04, 1239.03, 1239.04, 1241.03,

1243.03, 1243.04, 1245.03, 1245.04, 1247.03, 1247.04, 1249.03,

1249.04, 1251.03, 1251.04, 1253.03, 1253.04

Home occupations - see P. & Z. Ch. 1267

Fences - see P. & Z. Ch. 1279

Landscaping and screening - see P. & Z. Ch. 1283

Signs - see P. & Z. Ch. 1295

Swimming pools - see P. & Z. Ch. 1297

1235.01 PURPOSE.

The purpose of the R-10 District is to permit the establishment of high density single and two family dwellings. The R-10 Districts are associated with those areas to be served by local and cul-de-sac streets. All dwelling units and uses must be supplied with public water and sewer.

1235.02 SHORT NAME.

The short name and map symbol of the High Density Residential District is R-10.

- 1. Single-family dwelling units.
- 2. Religious institutions.
- 3. Public parks and playgrounds.
- 4. Accessory buildings and structures and their related uses.
- 5. All uses marked as "Permitted Uses" in the High Density Residential District (R-10) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

A conditional use permit may be issued in accordance with Chapter 1215, and the other provisions of these regulations provided that the applicant can demonstrate that the proposed use is consistent with those general principles outlined in Section 1215.04 as well as any additional standards in accordance with any or all of those standards found in Section 1215.05 or other conditions as required by the Board of Zoning Appeals and conditions referred to in the following descriptions:

- 1. Home occupations. Refer to Section 1215.05B.2. and Chapter 1267.
- 2. Governmental buildings. Refer to Section 1215.05A. and E. as applies.
- 3. Daycare facilities, nursing homes. Refer to Section 1215.05B.10. and E.8. as applies.
- 4. Neighborhood or community recreational facilities. Refer to Section 1215.05B. (4., 5., 6., 10.) and Section 1215.05E.8. as applies.
- 5. Public and private schools for academic instruction either state accredited or approved by the Board of Zoning Appeals. Refer to Section 1215.05E. (as applies).
- 6. Two-family residential dwelling.
- 7. All uses marked as "Conditional Uses" in the High Density Residential District (R-10) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1235.05 GENERAL REQUIREMENTS OF THE R-10 DISTRICT.

- A. <u>Maximum Building Height</u>: No building shall be erected or enlarged to exceed 35 feet.
- B. <u>Lot Area and Width</u>: Every lot for a single-family dwelling shall have a minimum width of at least 75 feet throughout and a minimum lot area of not less than 10,000 square feet. All lot area measurements shall be exclusive of road right-of-way.
 - C. Setbacks and Yards: For all lots of record, see Section 1285.05C.
 - 1. Front Yard: There shall be a front yard of not less than 35 feet in depth.
 - 2. <u>Side Yard</u>: There shall be a side yard of not less than 8 feet on either side, and a minimum sum of side yard widths of not less than 20 feet.
 - 3. Rear Yard: There shall be a rear yard of not less than 25 feet.
 - 4. Corner Lots: The principal building and its accessory structures shall have the same minimum setback distance from all street right-of-way lines as required for the front yard.
- D. <u>Maximum Lot Occupancy</u>: The maximum percentage of the total lot area which may be occupied by both principal and accessory buildings for non-residential uses shall be 50%.
 - E. Parking Requirements: Parking requirements shall be as regulated in Chapter 1291.
 - F. Signs: Signs shall be as regulated in Chapter 1295.
- G. <u>Dwelling Area</u>: Dwellings or structures shall have a minimum area of living space by outside dimensions, exclusive of porches, garages, and cellars or basements as herein specified.
 - 1. Single-Family:

With basement

1,300 square feet

Without basement

1,450 square feet

2. <u>Two-Family</u>:

With basement
Without basement

1050 square feet per dwelling unit 1200 square feet per dwelling unit

Basements are not required for any single-family or two-family dwellings. If a basement is included as part of the plans, at the time of permitting, then a minimum square footage of 600 square feet of floor area shall be required for single-family dwellings and 375 square feet of floor area shall be required for each unit of a two-family dwelling.

Single/two-family dwellings shall not be less than 24 feet in width and depth. (Ord. 2006-3733. Passed 12-18-06.)

- H. <u>Health Regulations</u>: The single-family dwelling unit must meet the requirements of the Board of Health with jurisdiction in the City and/or those of other authorities before being issued zoning permits.
- I. <u>Conversion of Dwelling to More Units</u>: A residence may not be converted to accommodate an increased number of dwelling units unless all of the following criteria are met:
 - 1. The yard dimensions still meet the yard dimensions required for new structures in this zoning district;
 - 2. The lot area per family equals the lot area requirements for new structures in this zoning district.
 - 3. The floor area per dwelling unit is not reduced to less than that which is required for new construction in this zoning district; and
 - 4. The conversion is in compliance with all other relevant codes for such structures.
- J. Open/Play Area: For each five (5) lots or portion thereof, there shall be provided an open green space or park/recreation area of not less than 1,500 square feet in size. Recreational and/or play equipment shall be provided pursuant to a proposal submitted by the developer and shall be subject to the approval of the Director of Planning. Examples include, but are not limited to, park benches, picnic tables, play sets, basketball and tennis courts. Such area shall be maintained in perpetuity by the owner of the lot of record. Landscaping, screening, required setback areas, and parking areas shall not be included in the calculation of the open/play area. (Ord. 2005-3600. Passed 3-21-05; Ord. 2015-4228. Passed 5-18-15.)

CHAPTER 1237 Village Single Family Residential District (R-7)

1237.01	Purpose.	1237.04	Conditionally permitted uses.
1237.02	Short name.	1237.05	General requirements of the
1237.03	Permitted uses.		R-7 District.

CROSS REFERENCES

General prohibitions - see GEN. OFF. Ch. 521

Definitions - see P. & Z. 1203.03

Permitted and Conditional Uses - see P. & Z. Ch. 1225.03, 1225.04, 1227.03, 1227.04, 1220.03, 1221.04, 1222.03, 1222.04

1227.04, 1229.03, 1229.04, 1231.03, 1231.04, 1233.03, 1233.04, 1235.03, 1235.04, 1237.03, 1237.04, 1239.03, 1239.04, 1241.03,

1243.03, 1243.04, 1245.03, 1245.04, 1247.03, 1247.04, 1249.03,

1249.04, 1251.03, 1251.04, 1253.03, 1253.04

Home occupations - see P. & Z. Ch. 1267

Fences - see P. &Z. Ch. 1279

Landscaping and screening - see P. & Z. Ch. 1283

Signs - see P. & Z. Ch. 1295

Swimming pools - see P. & Z. Ch. 1297

1237.01 PURPOSE.

The purpose of the R-7 District is to permit the establishment of high density single family dwellings within the boundaries of the former Village of Pataskala as of December 31, 1995. The R-7 Districts are associated with those areas to be served by local and cul-de-sac streets. All dwelling units and uses must be supplied with public water and sewer.

1237.02 SHORT NAME.

The short name and map symbol of the Village Single Family Residential District is R-7.

- 1. Single-family dwelling units.
- 2. Religious institutions.
- 3. Public parks and playgrounds.
- 4. Accessory buildings and structures and their related uses.
- 5. All uses marked as "Permitted Uses" in the Village Single Family Residential District (R-7) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

A conditional use permit may be issued in accordance with Chapter 1215, and the other provisions of these regulations provided that the applicant can demonstrate that the proposed use is consistent with those general principles outlined in Section 1215.04 as well as any additional standards in accordance with any or all of those standards found in Section 1215.05 or other conditions as required by the Board of Zoning Appeals and conditions referred to in the following descriptions:

- 1. Home occupations. Refer to Section 1215.05B.2. and Chapter 1267.
- 2. Governmental buildings. Refer to Section 1215.05A. and E. as applies.
- 3. Daycare facilities, nursing homes. Refer to Section 1215.05B.10. and E.8. as applies.
- 4. Neighborhood or community recreational facilities. Refer to Section 1215.04B.(4., 5., 6., 10.) and Section 1215.05E.8. as applies.
- 5. Public and private schools for academic instruction either state accredited or
- 6. All uses marked as "Conditional Uses" in the Single Family Residential District (R-7) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1237.05 GENERAL REQUIREMENTS OF THE R-7 DISTRICT.

- A. <u>Maximum Building Height</u>: No building shall be erected or enlarged to exceed 35 feet.
- B. <u>Lot Area and Width</u>: Every lot for a single-family dwelling shall have a minimum width of at least 60 feet throughout and a minimum lot area of not less than 7,000 square feet. All lot area measurements shall be exclusive of road right-of-way.
 - C. <u>Setbacks and Yards</u>: For all lots of record, see Section 1285.05C.
 - 1. Front Yard: There shall be a front yard of not less than 25 feet in depth.
 - 2. <u>Side Yard</u>: There shall be a side yard of not less than 7 feet on each side, and a minimum sum of side yard widths of not less than 15 feet.
 - 3. Rear Yard: There shall be a rear yard of not less than 35 feet.
 - 4. <u>Corner Lots</u>: The principal building and its accessory structures shall have the same minimum setback distance from all street right-of-way lines as required for the front yard.
- D. <u>Maximum Lot Occupancy</u>: The maximum percentage of the total lot area which may be occupied by both principal and accessory buildings for non-residential uses shall be 50%.
 - E. Parking Requirements: Parking requirements shall be as regulated in Chapter 1291.
 - F. Signs: Signs shall be as regulated in Chapter 1295.
- G. <u>Dwelling Area</u>: Dwellings or structures shall have a minimum area of living space by outside dimensions, exclusive of porches, garages, and cellars or basements as herein specified.
 - 1. <u>Single-Family Dwelling</u>

With basement 1, Without basement 1,

1,300 square feet 1,450 square feet

2. <u>Two-Family Dwelling:</u>

With basement
Without basement

1,050 square feet per dwelling unit 1,200 square feet per dwelling unit.

Basements are not required for any single-family or two-family dwellings. If a basement is included as part of the plans, at the time of permitting, then a minimum square footage of 600 square feet of floor area shall be required for single-family dwellings and 375 square feet of floor area shall be required for each unit of a two-family dwelling.

Single/two-family dwellings shall not be less than 24 feet in width and depth.

- H. <u>Health Regulations</u>: The single-family dwelling unit must meet the requirements of the County Board of Health and/or those of other authorities before being issued zoning permit.
- I. <u>Conversion of Dwelling to More Units</u>: A residence may not be converted to accommodate an increased number of dwelling units unless all of the following criteria are met:
 - 1. The yard dimensions still meet the yard dimensions required for new structures in this zoning district;
 - 2. The lot area per family equals the lot area requirements for new structures in this zoning district;
 - 3. The floor area per dwelling unit is not reduced to less than that which is required for new construction in this zoning district; and
 - 4. The conversion is in compliance with all other relevant codes for such structures.
- J. <u>Development Location</u>: R-7 developments must be located within the boundaries of the former Village of Pataskala that were in effect on December 31, 1995. (Ord. 2006-3733. Passed 12-18-06; Ord. 2015-4228. Passed 5-18-15.)

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CHAPTER 1239 Multi-Family Residential District (R-M)

1239.01	Purpose.	1239.04	Conditionally permitted uses.
1239.02	Short name.	1239.05	General requirements of the
1239.03	Permitted uses.		R-M District.

CROSS REFERENCES

General prohibitions - see GEN. OFF. Ch. 521

Definitions - see P. & Z. 1203.03

Permitted and Conditional Uses - see P. & Z. Ch. 1225.03, 1225.04, 1227.03,

1227.04, 1229.03, 1229.04, 1231.03, 1231.04, 1233.03, 1233.04,

1235.03, 1235.04, 1237.03, 1237.04, 1239.03, 1239.04,1241.03,

1243.03, 1243.04, 1245.03, 1245.04, 1247.03, 1247.04, 1249.03,

1249.04, 1251.03, 1251.04, 1253.03, 1253.04

Home occupations - see P. & Z. Ch. 1267

Fences - see P. & Z. Ch. 1279

Landscaping and screening - see P. & Z. Ch. 1283

Signs - see P. & Z. Ch. 1295

Swimming pools - see P. & Z. Ch. 1297

1239.01 PURPOSE.

The purpose of the R-M District is to permit the establishment of high density multi and two family dwellings. More than one principal building (multi-family or two family) is allowed per lot in the R-M District. The R-M District will serve as a transitional District between High Density Residential uses and non-residential, commercial uses. The R-M Districts are associated with those areas with primary direct access to an arterial roadway. All dwelling units and uses must be supplied with and utilize public water and sewer.

1239.02 SHORT NAME.

The short name and map symbol of the Multi-family Residential District is R-M.

- 1. Two-Family and Multi-Family dwelling units, except condominiums (notwithstanding that Section 1203.03 defines "Dwelling Multi-Family" to include condominiums, which definition shall continue to apply for all purposes other than Division 1 of Section 1239.03).
- 2. Religious institutions.

3. Public parks and playgrounds.

4. Accessory buildings and structures and their related uses.

5. All uses marked as "Permitted Uses" in the Multi-Family Residential District (R-M) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

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1239.04 CONDITIONALLY PERMITTED USES.

A conditional use permit may be issued in accordance with Chapter 1215, and the other provisions of these regulations provided that the applicant can demonstrate that the proposed use is consistent with those general principles outlined in Section 1215.04 as well as any additional standards in accordance with any or all of those standards found in Section 1215.05 or other conditions as required by the Board of Zoning Appeals and conditions referred to in the following descriptions:

- 1. Daycare facilities, nursing homes. Refer to Section 1215.05B. and E. as applies.
- 2. Neighborhood or community recreational facilities. Refer to Section 1215.04B. (4., 5., 6.) and 1215.05E.8. as applies.
- 3. Public and private schools for academic instruction either state accredited or approved by the Board of Zoning Appeals. Refer to Section 1215.04E., as applies.
- 4. Condominiums
- 5. All uses marked as "Conditional Uses" in the Multi-Family Residential District (R-M) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1239.05 GENERAL REQUIREMENTS OF THE R-M DISTRICT.

- A. <u>Maximum Building Height</u>: No building shall be erected or enlarged to exceed 45 feet.
- B. <u>Lot Area and Width</u>: Every lot or tract of land upon which there is erected a two-family or multiple-family dwelling, or other permitted and/or conditionally permitted use, shall have a minimum width of at least 90 feet throughout and a minimum lot area of not less than 13,000 square feet. All lot area measurements shall be exclusive of road right-of-way.

No building structure shall be erected or altered except on a lot of record with an area of at least 4356 sq. ft. per dwelling unit.

- C. <u>Setbacks and Yards</u>: For all lots of record, see Section 1285.05C. Multi-Family dwellings shall be considered as one building for the purpose of determining front, side, and rear yard requirements. The entire group, as a unit, shall require one front, one rear, and two side yards as specified below. The rear and side yard requirements between adjacent buildings may be reduced up to 50% of the requirements listed below; the total square footage of all side and rear yard reductions shall be added to the total required setback area for the entire group of dwellings.
 - 1. <u>Front Yard</u>: There shall be a front yard of not less than 50 feet in depth, exclusive of road right-of-way.
 - 2. Side Yard: There shall be a side yard of not less than 15 feet on each side.
 - 3. Rear Yard: There shall be a rear yard of not less than 25 feet.
 - 4. <u>Corner Lots</u>: The principal building and its accessory structures shall have the same minimum setback distance from all street right-of-way lines as required for the front yard.

- D. <u>Maximum Lot Occupancy</u>: The maximum percentage of the total lot area which may be occupied shall be 60% exclusive of road right-of-way.
- E. <u>Parking Requirements and Setbacks</u>: Parking requirements and setbacks shall be as regulated in Chapter 1291.
 - F. Signs: Signs shall be as regulated in Chapter 1295.
- G. <u>Dwelling Area</u>: All dwelling area requirements for the R-M District are to be determined from outside dimensions exclusive of porches, garages, and cellars or basements.
 - 1. Single Multi-Family and/or Two-Family Dwelling
 One Bedroom = 900 square feet
 Two Bedroom = 1,100 square feet
 Three Bedroom = 1,300 square feet
 - 2. All buildings shall not be less than 24 feet in width and depth.
- H. <u>Health Regulations</u>: The multi-family dwelling unit must meet the requirements of the Board of Health with jurisdiction in the City and/or those of other authorities before being issued zoning permits.
- I. <u>Conversion of Dwelling to More Units</u>: A residence may not be converted to accommodate an increased number of dwelling units unless all of the following criteria are met:
 - 1. The yard dimensions still meet the yard dimensions required for new structures in this zoning district.
 - 2. The lot area per family equals the lot area requirements for new structures in this zoning district.
 - 3. The floor area per dwelling unit is not reduced to less than that which is required for new construction in this zoning district.
 - 4. The conversion is in compliance with all other relevant codes for such structures.
- J. Required Trash Areas: Required trash areas shall be as regulated in Section 1283.06.
 - K. <u>Lighting</u>: Lighting shall be regulated as stated in Chapter 1291.
- L. <u>Landscaping/Screening</u>: Landscaping/screening shall be regulated as stated in Chapter 1283.

M. Open/Play Area: For each 5 units or portion thereof, there shall be provided an open green space or park/recreation area of not less than 1,000 square feet in size. Recreational and/or play equipment shall be provided pursuant to a proposal submitted by the developer and shall be subject to the approval of the Zoning Inspector. A minimum of one (1) piece of heavy duty recreational equipment for each 1,000 square feet; examples would include, but are not limited to, park benches, picnic tables, play sets, basketball and tennis courts. Such area shall be maintained in perpetuity by the owner of the lot of record. Landscaping, screening, required setback areas, and parking areas shall not be included in the calculation of open/play area. (Ord. 2006-3733. Passed 12-18-06; Ord. 2015-4228. Passed 5-18-15.)

CHAPTER 1241 Manufactured Home Residential District (R-MH)

1241.01	Purpose.	1241.04	Jurisdiction.
1241.02	Short name.	1241.05	General requirements of the
1241.03	Permitted uses.		R-MH District.

CROSS REFERENCES

Manufactured home parks - see Ohio R.C. Ch. 3733
Manufactured home definitions - see P. & Z. 1203.03
General prohibitions - see GEN. OFF. Ch. 521
Definitions - see P. & Z. 1203.03
Permitted and Conditional Uses - see P. & Z. Ch. 1225.03, 1225.04, 1227.03, 1227.04, 1229.03, 1229.04, 1231.03, 1231.04, 1233.03, 1233.04, 1235.03, 1235.04, 1237.03, 1237.04, 1239.03, 1239.04,1241.03, 1243.03, 1243.04, 1245.03, 1245.04, 1247.03, 1247.04, 1249.03, 1249.04, 1251.03, 1251.04, 1253.03, 1253.04

Use during construction - see P. & Z. 1298.03

1241.01 PURPOSE.

The Manufactured Home Residential District is established to provide areas for manufactured home parks which will be located, designed, and improved so as to provide a desirable residential environment, protection from potentially adverse neighboring influences, protection for adjacent residential properties, access for vehicular traffic without undue traversing of minor streets in adjoining residential neighborhoods, and overall accessibility equivalent to that for other forms of permitted residential development.

1241.02 SHORT NAME.

The short name and map symbol of the Manufactured Home Residential District is R-MH.

- 1. One- and two-family detached, and attached dwellings.
- 2. Manufactured home parks.
- 3. Public or private parks or playgrounds.
- 4. Essential services.
- Accessory uses and structures, including common areas, community/recreational facilities, and offices for rental and management of units therein.
 All uses marked as "Permitted Uses" in the Manufactured Home Residential
- 6. All uses marked as "Permitted Uses" in the Manufactured Home Residential District (R-MH) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1241.04 JURISDICTION.

Where other regulations exist, such as Ohio R.C. Chapter 3733, the more stringent regulations shall apply. Plan approvals issued under Ohio R.C. 3733 do not exempt a mobile home park from land use and building requirements of the City. (ORC 3733.021F)

1241.05 GENERAL REQUIREMENTS OF THE R-MH DISTRICT.

The following standards for the arrangement and development of land and buildings are required in the Manufactured Home Residential District:

- A. <u>Maximum Building Height</u>: No building shall be erected or enlarged to exceed 25 feet.
- B. Lot Area and Width:
 - 1. Lot Area:
 - a. The minimum lot area for any manufactured home park shall be ten (10) acres.
 - b. For all permitted uses, lots shall be not less than 10,890 square feet.
 - 2. Lot Width:
 - a. The minimum lot width for any manufactured home park shall be not less than 250 feet. Frontage shall be provided on a publicly dedicated and improved street. The ratio of width to depth shall not exceed one to five (1:5).
 - b. The minimum individual lot width shall be not less than 75 feet.
- C. Setbacks and Yards: For all lots of record, see Section 1285.05C.
 - 1. <u>Front Yard</u>: The minimum individual front yard depth shall be not less than 35 feet.
 - 2. Side Yard:
 - a. The minimum side yard width for any manufactured home park shall be not less than 35 feet.
 - b. For any individual lot, there shall be a minimum side yard of not less than eight (8) feet, and a minimum sum of side yard widths of not less than 20 feet.
 - 3. Rear Yard:
 - a. The minimum rear yard depth for any manufactured home park shall be not less than 35 feet.
 - b. The minimum rear yard depth for any individual lot shall be not less than twenty-five (25) feet.
 - 4. <u>Corner Lots</u>: The principal building and its accessory structures shall have the same minimum setback distance from all street right-of-way lines as required for the front yard.
- D. <u>Maximum Lot Occupancy</u>: The maximum percentage of the total lot area which may be occupied by both principal and accessory buildings shall be 40% of any individual lot.
- E. <u>Parking Requirements and Setbacks</u>: Off-street parking for all uses in the Manufactured Home Residential District shall be provided as required in Chapter 1291.
 - Additionally, in manufactured home parks, parking spaces shall be provided for two (2) vehicles for each manufactured home. Such parking spaces shall be located either on the same lot as the dwelling which they serve, or in specially provided common areas located not more than 200 feet from the dwelling which they serve, or some combination thereof. Required parking spaces shall not be provided on public or private streets within and on the perimeter of the park.
- F. Signs: Signs shall be as regulated in Chapter 1295.

G. <u>Lots and Locations of Dwellings on Lots; Occupancy</u>. Lots intended for placement of dwellings in manufactured home parks shall be so located with respect to streets as to make practical the placement of such dwellings for occupancy. In determinations concerning the satisfaction of this requirement, the Planning and Zoning Commission shall consider the proposed manner of placement of manufactured homes on individual lots.

Location on the lot shall be suitable for the type of dwelling proposed, considering

size, required open spaces, and manner of support.

Any improvements on the lot, including those necessary for the support or anchoring of the dwelling as required by this Code, shall be provided to the dwelling prior to the granting of a certificate of occupancy.

The limits of each manufactured home lot shall be clearly marked on the ground

by permanent flush stakes, markers, or other suitable means.

H. <u>Health Regulations</u>: The manufactured home development must meet the requirements of the applicable Board of Health and/or those of other authorities before being issued zoning permits.

I. <u>Underground Utilities</u>: All utility lines, including electricity, gas, telephone, and

cable television shall be located underground.

J. <u>Required Trash Areas</u>: All trash and garbage shall be stored in container systems which are located and enclosed in a manner which provides ease of access to individual manufactured home lots, while effectively screening them from view. Required trash areas shall be regulated as stipulated in Section 1283.06.

K. <u>Lighting</u>: Lighting shall be regulated as stated in Section 1291.03.

L. <u>Landscaping/Screening</u>: Landscaping/screening shall be regulated as stated in Chapter 1283. All landscaping/screening required by this Code shall be in place within one year or prior to the granting of a Certificate of Occupancy.

M. Required Open Space and Recreational Areas:

- 1. At least 15 percent (15%) of the gross land area for any manufactured home park shall be developed as common recreational areas, including facilities such as playgrounds, swimming pools, pedestrian paths, and/or similar facilities. Such recreational areas shall not include streets or parking areas, shall be closed to motorized traffic except for maintenance and service vehicles, and shall be landscaped, improved and maintained for the uses intended.
- 2. At least 10 percent (10%) of the gross land area of each individual manufactured home lot shall be provided as an outdoor living area. Such outdoor living area shall not be counted as any portion of the required common recreational area referenced in subsection N.1. above. Such outdoor living area shall be properly drained, located for optimum use, and landscaped to provide for reasonable privacy. A portion of the outdoor living area may be covered by a roof or outdoor storage shed, provided the Maximum Lot Occupancy is not exceeded.
- N. <u>Buffer Zone</u>: A buffer zone of not less than 35 feet shall be required along all property lines around the perimeter of any manufactured home development.

- O. <u>Anchors and Skirting</u>: Each manufactured home lot shall be provided with anchors and tie-downs suitable to insure the securing and stability of the manufactured home. Each manufactured home shall be provided with a suitable skirt, entirely enclosing the area below the floor of the structure to the ground.
- P. <u>Storm Protection</u>: Each manufactured home development must provide substantial tornado protection structure(s) with sufficient space to accommodate the anticipated maximum number of persons who may reside in the development. This structure must be centrally located in the development and must be handicap accessible.
- Q. Access: All manufactured home parks shall have direct access to collector streets with a right-of-way of not less than 60 feet in width. Principal vehicular access points shall be designed to encourage smooth traffic flow. Merging and turnout lanes and/or traffic dividers shall be required where existing or anticipated traffic volumes indicate need. Minor streets shall not be connected with streets outside the district in such a way so as to encourage the use of those streets by substantial amounts of through traffic. No lot within the park shall have direct vehicular access to a street bordering the development.
- R. Streets and Street Layout.
 - All streets, whether private or dedicated to the City, providing access to the individual lots in a manufactured home park shall be dimensioned and improved in accordance with the standards and requirements of the Subdivision Regulations of the City of Pataskala.
 - The proposed layout of streets within a manufactured home park shall be approved by the City Engineer. All costs associated with such approval shall be paid by the applicant prior to issuance of Certificates of Occupancy.
- S. Water and Sewer Provision.
 - All manufactured home parks shall provide a water and sanitary sewer distribution system, serving each individual manufactured home lot, which is connected to a public water and sanitary sewage system. The design and construction of such distribution systems shall be approved by the Ohio Environmental Protection Agency, the City Engineer, and the City Director of Utilities. All costs associated with such approvals shall be paid. by the applicant prior to the issuance of Certificates of Occupancy.
 - The developer may be required to extend the necessary improvements across the frontage of the development to the boundary to serve adjoining unsubdivided land, as recommended by the City Engineer and/or the City Utilities Director, and determined by the Planning and Zoning Commission.
- T. Storm Drainage: All areas within a manufactured home park shall be graded and drained so as to minimize standing water and surface runoff. Open drainage ditches are prohibited. Where an adequate public storm sewer is available at the development boundary, the developer shall construct a storm sewer system and connect with such storm sewer line. If such a storm sewer system is not accessible, natural drainage channels with easements of adequate width shall be provided, as determined by the City Engineer and approved by the Planning and Zoning Commission. Paved gutters or storm sewers shall be required if velocities of flow are greater than specified in Section 1121.20 of the Pataskala Subdivision Regulations, or will cause destructive erosion. Storm drainage, including drain tile around basements, shall not be permitted to discharge into any sanitary sewer facility, but shall connect to an adequate drainage outlet.
- U. <u>Fire Protection</u>: Within each manufactured home park there shall be provided a fire protection system approved by the local fire authority. Standard fire hydrants shall be located within 400 feet of all individual lots, or another system constructed which in the opinion of the local fire authority provides an equal or greater measure of protection. (Ord. 2015-4228. Passed 5-18-15.)

CHAPTER 1243 Professional-Research-Office District (PRO)

1243.01	Purpose.	1243.04	Conditionally permitted uses.
1243.02	Short name.	1243.05	General requirements of the
1243.03	Permitted uses.		PRO District.

CROSS REFERENCES

Research facilities defined - see P. & Z. 1203.03 General prohibitions - see GEN. OFF. Ch. 521 Definitions - see P. & Z. 1203.03

Permitted and Conditional Uses - see P. & Z. Ch. 1225.03, 1225.04, 1227.03, 1227.04, 1229.03, 1229.04, 1231.03, 1231.04, 1233.03, 1233.04, 1235.03, 1235.04, 1237.03, 1237.04, 1239.03, 1239.04, 1241.03, 1243.03, 1243.04, 1245.03, 1245.04, 1247.03, 1247.04, 1249.03, 1249.04, 1251.03, 1251.04, 1253.03, 1253.04

1243.01 PURPOSE.

The purpose of the PRO District is to encourage the establishment of groups of professional, research, executive, administrative, accounting, clerical, stenographic, and similar uses. The PRO District is also designed to act as a buffer between more intense non-residential uses and residential uses.

1243.02 SHORT NAME.

The short name and map symbol of the Professional-Research-Office District is PRO.

- 1. Medical or medical-related offices or clinics.
- 2. Law offices.
- 3. Insurance and real estate offices.
- 4. Banks and finance establishments.
- 5. Utility company offices.
- 6. Research facilities and/or laboratories.
- 7. Governmental offices.
- 8. Planning, architect, or engineering offices, but excluding outside storage.
- 9. Other professional offices.
- 10. Veterinary offices and clinics, but excluding facilities for outside boarding or exercising of animals.
- 11. All uses marked as "Permitted Uses" in the Professional-Research-Office District (PRO) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

A conditional use permit may be issued in accordance with Chapter 1215, and the other provisions of these regulations provided that the applicant can demonstrate that the proposed use is consistent with those general principles outlined in Section 1215.04 as well as any additional standards in accordance with any or all of those standards found in Section 1215.05 or other conditions as required by the Board of Zoning Appeals and conditions referred to in the following descriptions:

- 1. Nursing homes (extended care).
- 2. Hospitals. Refer to Section 1215.05A.(1., 8.), E. (4., 5., 7.), F. 1.
- 3. Theaters. Refer to Section 1215.05A.3.
- 4. Daycare facilities. Refer to Sections 1215.05B. 10. and E.8.
- 5. Institutions.
- 6. All uses marked as "Conditional Uses" in the Profession-Research-Office (PRO) District as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1243.05 GENERAL REQUIREMENTS OF THE PRO DISTRICT.

- A. <u>Maximum Building Height</u>: No building shall be erected or enlarged to exceed 35 feet.
- B. <u>Lot Area and Width</u>: Every lot shall have a minimum width of 200 feet throughout, and a minimum lot area of not less than two acres (87,120 square feet), exclusive of road right-of-way. A minimum lot size of 20,000 square feet with a minimum frontage of 75 feet shall be allowed when lot is serviced by public water and sewer.
 - C. Setbacks and Yards: For all lots of record, see Section 1285.05C.
 - 1. Front Yard: There shall be a front yard of not less than 75 feet in depth (50 feet in depth with central water and sewer).
 - 2. <u>Side Yard</u>: There shall be a side yard of not less than 25 feet (15 feet in depth with central water and sewer).
 - 3. Rear Yard: There shall be a rear yard of not less than 25 feet.
 - 4. <u>Corner Lots</u>: The principal building and its accessory structures shall have the same minimum setback distance from all street right-of-way lines as required for the front yard.
- D. <u>Maximum Lot Occupancy</u>: The maximum percentage of the total lot area which may be occupied by both principal and accessory buildings for commercial uses shall be 80%.
- E. <u>Parking and Loading</u>: Parking and loading requirements shall be as regulated in Chapter 1291.
 - F. Signs: Signs shall be as regulated in Chapter 1295.
- G. <u>Bulk Requirements</u>: All structures shall have a minimum of 600 square feet per business unit with no more than four business units (units sharing at least one common wall) per 10,890 square feet. All structures shall not be less than 24 feet in width and depth. All structure requirements for the PRO District are to be determined from outside dimensions, exclusive of porches, garages, and cellars or basements.

- H. <u>Trash and Garbage Control</u>: All trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen them from view. Screening of trash and garbage areas shall meet the requirements of Section 1283.06. Container systems shall not be located in front yards.
- I. <u>Screening/Buffer Yards Requirements</u>: Screening/buffer yards shall be required as specified in Chapter 1283.

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CHAPTER 1245 Downtown Business District (DB)

1245.01	Purpose.	1245.04	Conditionally permitted uses.
1245.02	Short name.		General requirements of the DB
1245.03	Permitted uses.		District.

CROSS REFERENCES

Business definitions - see P. & Z. 1203.03 General prohibitions - see GEN. OFF. Ch. 521 Definitions - see P. & Z. 1203.03

Permitted and Conditional Uses - see P. & Z. Ch. 1225.03, 1225.04, 1227.03, 1227.04, 1229.03, 1229.04, 1231.03, 1231.04, 1233.03, 1233.04, 1235.03, 1235.04, 1237.03, 1237.04, 1239.03, 1239.04, 1241.03, 1243.03, 1243.04, 1245.03, 1245.04, 1247.03, 1247.04, 1249.03, 1249.04, 1251.03, 1251.04, 1253.03, 1253.04

Off-street parking - see P. & Z. Ch. 1291 Signs - see P. & Z. Ch. 1295

1245.01 PURPOSE.

The Downtown Business District is established to encourage the orderly development of community-oriented retail and commercial facilities in the downtown area, in consideration of constraints to development which exist in the downtown area.

1245.02 SHORT NAME.

The short name and map symbol of the Downtown Business District is DB.

1245.03 PERMITTED USES.

- 1. Administrative, business and professional offices as permitted uses in Section 1243.03.
- 2. Retail stores primarily engaged in selling merchandise for personal or household consumption, and rendering services incidental to the sale of those goods:
 - a. Food and food products, for example: grocery stores, meat and fish markets, fruit stores and vegetable markets, and specialty food stores such as candy or confectionery.
 - b. General merchandise, for example: limited price variety stores and hardware stores.
 - c. Apparel, for example: clothing, furnishings, and accessory items for men, women, and children.

- d. Miscellaneous retail stores, for example: proprietary drug stores, florists, gift, antique or second-hand stores, books and newspapers, jewelry, or optical goods.
- 3. Personal services, involving the care of the person and his/her personal effects, including consumer services generally involving the care and maintenance of tangible property or the provision of intangible services for personal consumption, including:
 - a. Restaurants, but not including restaurants with drive-through facilities.
 - b. Banks, savings and loans, and credit agencies, but not including establishments with drive-through facilities.
 - c. Barber and beauty shops.
 - d. Funeral services.
 - e. Public and private parking areas.
 - f. On-premises duplication and reproduction services.
- 4. Business services engaged in providing of services to business establishments on a fee or contract basis, such as advertising, mailing services, management or consulting services, protective services, office equipment rental and leasing, commercial research and development.
- 5. Essential services.
- 6. Libraries, museums, art galleries.
- 7. All uses marked as "Permitted Uses" in the Downtown Business District (DB) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1245.04 CONDITIONALLY PERMITTED USES.

A conditional use permit may be issued in accordance with Chapter 1215, and the other provisions of these regulations provided that the applicant can demonstrate that the proposed use is consistent with those general principles outlined in Section 1215.04 as well as any additional standards in accordance with any or all of those standards found in Section 1215.05 or other conditions as required by the Board of Zoning Appeals and conditions referred to in the following descriptions:

- 1. Institutions.
- 2. Religious institutions.
- 3. One, two, three, or four-family residential dwelling units.
- 4. Restaurants with drive-through facilities.
- 5. Banks, savings and loans, and credit agencies with drive-through facilities.
- 6. All uses marked as "Conditional Uses" in the Downtown Business District (DB) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2007-3763. Passed 5-7-07; Ord. 2008-3843. Passed 7-21-08.)

1245.05 GENERAL REQUIREMENTS OF THE DB DISTRICT.

- A. <u>Maximum Building Height</u>: No building shall be erected or enlarged to exceed 40 feet.
 - B. Lot Area and Width:
 - Lot Area:
 - a. No minimum lot size is required; however, lot size shall be adequate for parking and yard requirements.
 - b. Residential uses must meet the requirements of the least restrictive residential district permitting that use.

2. <u>Lot Width</u>:

- a. No minimum lot width is required; however, all lots shall abut a publicly dedicated and improved street or highway, and shall have adequate width to provide for yard space and parking requirements pursuant to this section and Chapter 1291.
- b. Residential uses must meet the requirements of the least restrictive residential district permitting that us.
- C. <u>Setbacks and Yards</u>: For all lots of record, see Section 1285.05C.
 - 1. <u>Front Yard</u>: The front yard setback shall be 10 feet as measured from the curb.
 - 2. <u>Side Yard</u>: For interior lots, no minimum side yard is required; for corner lots, ten (10) feet as measured from the curb is required for new structures. These yard requirements shall apply, provided that sufficient space is provided to meet parking requirements pursuant to Chapter 1291. Residential uses must meet the requirements of the least restrictive residential district permitting that use.
 - 3. Rear Yard: Fifteen (15) feet from any paved area or structure adjacent to any district where residences are a permitted use, provided that sufficient space is provided to meet parking requirements pursuant to Chapter 1291.
 - 4. <u>Corner Lots</u>: The principal building and its accessory structures shall have the same minimum setback distance from all street right-of-way lines as required for the front yard.
- D. <u>Maximum Lot Coverage</u>: At least 5 percent (5%) of the lot area, exclusive of parking areas and public rights-of-way, shall be devoted to yard space, or pedestrian space.
- E. <u>Parking and Loading</u>: Parking and loading requirements shall be as regulated in Chapter 1291.
 - F. Signs: Signs shall be as regulated in Chapter 1295.
- G. <u>Trash and Garbage Control</u>: All trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen them from view. Screening of trash and garbage areas shall meet the requirements of Section 1283.06. Container systems shall not be located in front yards.

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CHAPTER 1247 Local Business District (LB)

CROSS REFERENCES

Business definitions - see P. & Z. 1203.03 General prohibitions - see GEN. OFF. Ch. 521 Definitions - see P. & Z. 1203.03 Permitted and Conditional Uses - see P. & Z. Ch. 1225.03, 1225.04, 1227.03, 1227.04, 1229.03, 1229.04, 1231.03, 1231.04, 1233.03, 1233.04, 1235.03, 1235.04, 1237.03, 1237.04, 1239.03, 1239.04,1241.03, 1243.03, 1243.04, 1245.03, 1245.04, 1247.03, 1247.04, 1249.03, 1249.04, 1251.03, 1251.04, 1253.03, 1253.04 Service stations - see P. & Z. Ch. 1281

1247.01 PURPOSE.

The purpose of the LB District is to encourage the establishment of local businesses and services which tend to meet the daily needs of the residents of an immediate neighborhood. Such districts shall reduce parking and traffic congestion as well as discourage large regional oriented businesses or other businesses and services that would affect the neighborhood character of the district. These districts shall be strategically located with direct access to a collector thoroughfare as specified in the Major Thoroughfare Plan. Strip development shall be discouraged.

1247.02 SHORT NAME.

The short name and map symbol of the Local Business District is LB.

1247.03 PERMITTED USES.

- 1. Religious institutions.
- 2. Public and private schools.
- 3. Public parks and playgrounds.
- 4. Governmental buildings.
- Cemeteries.
- 6. Local retail business or service supplying commodities or performing services primarily for the residents of a local community; for example, fruit-vegetable stores, meat markets, drug stores, barbers or beauty shops, clothes cleaning and laundry pickup stations; laundromats, shoe stores.

- 7. Nurseries (plant materials) and/or greenhouses.
- 8. Restaurants without entertainment or drive-thru facilities.
- 9. Antique stores.
- 10. Libraries, museums, and art galleries.
- 11. Grocery under 10,000 square feet.
- 12. All uses marked as "Permitted Uses" in the Local Business District (LB) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1247.04 CONDITIONALLY PERMITTED USES.

A conditional use permit may be issued in accordance with Chapter 1215, and the other provisions of these regulations provided that the applicant can demonstrate that the proposed use is consistent with those general principles outlined in Section 1215.04 as well as any additional standards in accordance with any or all of those standards found in Section 1215.05 or other conditions as required by the Board of Zoning Appeals and conditions referred to in the following descriptions:

- 1. Clinic and daycare facilities. Refer to Section 1215.05A.9., B.10., E.8. as applies.
- 2. Public or private commercial swimming pool. Refer to Section 1215.05A.(3., 6., 8., 9., 10.).
- 3. Grocery store larger than 10,000 square feet. See definition, refer to Section 1215.05A.(8., 9., 10.), B.(2., 3.), E. (as applies), and F.1.
- 4. Funeral homes, provided that there are no cremation facilities on the premises. Refer to Section 1215.05A.11. and E.8.
- 5. Theaters. Refer to Section 1215.05A.3.
- 6. Auto accessory store provided there is no outside storage.
- 7. Automobile service station pursuant to Chapter 1281, Gasoline Service Stations, provided operations involving major repairs, body and fender work, and painting, are not conducted on the premises; provided all pumps are set back at least forty (40) feet from the right-of-way line of all abutting streets; and provided parking and/or services areas are separated from adjoining residential properties by a suitable planting screen, fence, or wall at least six (6) feet in height above finished grade.
- 8. Contractor's office provided there is no outside storage of construction vehicles, equipment, or materials on the premises.
- 9. Pet shop, provided all animals are housed within the principal buildings. Refer to Section 1215.05A.5. and E. (as applies).
- 10. Veterinary clinic. Refer to Section 1215.05A.5. and E. (as applies).
- 11. Research facilities. Refer to Section 1215.05A.5. and Ê. (as applies), see definitions.
- 12. Lodge and fraternal organizations.
- 13. Medical or medical-related offices or clinics.
- 14. Law offices.
- 15. Insurance and real estate offices.
- 16. Banks and finance establishments.
- 17. Utility company offices.
- 18. Planning, architect, or engineering offices.
- 19. Other professional offices.
- 20. Accessory uses and structures.
- 21. Restaurants with drive-thru facilities.
- 22. All uses marked as "Conditional Uses" in the Local Business District (LB) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1247.05 GENERAL REQUIREMENTS OF THE LB DISTRICT.

- A. <u>Maximum Building Height</u>: No building shall be erected or enlarged to exceed 35 feet.
- B. <u>Lot Area and Width</u>: Every lot shall have a minimum width of 200 feet at the road frontage, and a minimum lot area of not less than two acres (87,120 square feet), exclusive of road right-of-way. A minimum lot size of 10,000 square feet with a minimum lot frontage of 75 feet on a dedicated street shall be allowed when lot is serviced by public water and sewer.
 - C. <u>Setbacks and Yards</u>: For all lots of record, see Section 1285.05C.
 - 1. Front Yard: There shall be a front yard of not less than 75 feet in depth (50 feet in depth with central water and sewer).
 - 2. <u>Side Yard</u>: There shall be a side yard of not less than 25 feet (15 feet with central water and sewer).
 - 3. Rear Yard: There shall be a rear yard of not less than 25 feet.
 - 4. <u>Corner Lots</u>: The principal building and its accessory structures shall have the same minimum setback distance from all street right-of-way lines as required for the front yard.
- D. <u>Maximum Lot Occupancy</u>: The maximum percentage of the total lot area which may be occupied by both principal and accessory buildings for commercial uses shall be 85%.
- E. <u>Parking and Loading</u>: Parking and loading requirements shall be as regulated in Chapter 1291.
 - F. Signs: Signs shall be as regulated in Chapter 1295.
- G. <u>Trash and Garbage Control</u>: All trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen them from view. Screening of trash and garbage areas shall meet the requirements of Section 1283.06. Container systems shall not be located in front yards.
- H. <u>Bulk Requirements</u>: All structures shall have a minimum of 600 square feet and shall not exceed 3,000 square feet per business unit with no more than four business units (units sharing at least one common wall) per 10,890 square feet. All structures shall not be less than 24 feet in width and depth. All structure requirements for the LB District are to be determined from outside dimensions, exclusive of porches, garages, and cellars or basements.
- I. <u>Screening/Buffer Yards Requirements</u>: Screening/buffer yards shall be required as specified in Chapter 1283.

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CHAPTER 1249 General Business District (GB)

1249.01 Purpose. 1249.04 Conditionally permitted uses. 1249.02 Short name. 1249.05 General requirements of the GB District

CROSS REFERENCES

Business definitions - see P. & Z. 1203.03

General prohibitions - see GEN. OFF. Ch. 521

Definitions - see P. & Z. 1203.03

Permitted and Conditional Uses - see P. & Z. Ch. 1225.03, 1225.04, 1227.03,

1227.04, 1229.03, 1229.04, 1231.03, 1231.04, 1233.03, 1233.04,

1235.03, 1235.04, 1237.03, 1237.04, 1239.03, 1239.04, 1241.03,

1243.03, 1243.04, 1245.03, 1245.04, 1247.03, 1247.04, 1249.03,

1249.04, 1251.03, 1251.04, 1253.03, 1253.04

Service stations - see P. & Z. Ch. 1281

Parking and loading - see P. & Z. Ch. 1291

Signs - see P. & Z. Ch. 1295

Temporary activities - see P. & Z. Ch. 1298

1249.01 PURPOSE.

The purpose of the GB District is to encourage the establishment of areas for general business uses which meet the needs of a regional market area. GB Districts shall be located on an arterial thoroughfare as specified in the Major Thoroughfare Plan.

1249.02 SHORT NAME.

The short name and map symbol of the General Business District is GB.

1249.03 PERMITTED USES.

- 1. Restaurants without entertainment or drive-thru facilities.
- 2. Public and private schools.
- 3. Public parks and playgrounds.
- 4. Governmental buildings.
- 5. Theaters.
- 6. Religious institutions.
- 7. Auto and/or farm implement sales.
- 8. Trade or commercial schools.
- 9. Wholesale business or warehousing when no processing, fabrication or assembly is involved, if conducted entirely in an enclosed building.
- 10. Public garages.
- 11. Building trade equipment material sales including concrete, electrical, masonry, sheet metal, plumbing, heating, and other building supplies, if conducted in an entirely enclosed building when no processing, fabrication or assembly is involved.

- 12. Furniture and appliance stores and repair.
- 13. Motion picture or recording studios.
- 14. Grocery stores.
- 15. All permitted uses as allowed in the PRO and LB Districts.
- 16. All uses marked as "Permitted Uses" in the General Business District (GB) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1249.04 CONDITIONALLY PERMITTED USES.

A conditional use permit may be issued in accordance with Chapter 1215, and the other provisions of these regulations provided that the applicant can demonstrate that the proposed use is consistent with those general principles outlined in Section 1215.04 as well as any additional standards in accordance with any or all of those standards found in Section 1215.05 or other conditions as required by the Board of Zoning Appeals and conditions referred to in the following descriptions:

- 1. Hospital. Refer to Section 1215.05A.(1.,8.), E. (4.,5.,7. as applies), F.1., standards outlined in Sec. 916-d (1-5).
- 2. Watercraft and/or recreational vehicle storage. Refer to Section 1215.05A.9.
- 3. Electronic communications broadcasting station and towers (applies to commercial stations and equipment only).
- 4. Automobile service station, provided all pumps are set back at least forty (40) feet from the right-of-way line of the street, and parking and/or service areas are separated from adjoining residential properties by suitable visual screen or solid fence or wall at least six (6) feet in height. Refer to Section 1215.05E. (as applies) and Chapter 1281, Gasoline Service Stations.
- 5. Motor vehicle garage for the repair and servicing of vehicles, provided all operations are conducted within a fully enclosed building and there is no open storage of wrecked vehicles, dismantled parts, or parts visible beyond the premises.
- 6. Newspaper publishing plant, provided that the requirements for parking, loading, and unloading conform to those for industrial buildings.
- 7. Vehicle carwash, provided off-street paved parking area, capable of accommodating not less than one-half (1/2) of hourly vehicle washing capacity awaiting entrance to the washing process is suitably located and maintained on the premises, and for such space to contain at least two hundred (200) square feet per waiting vehicle; and no safety hazard or impediment to traffic movement is created by the operation of such an establishment.
- 8. Veterinary or kennel (commercial), provided any structure shall be no closer than two hundred (200) feet to any residential zoning perimeter or residential dwelling; provided all boarding arrangements are maintained within the facility, and it will not be audible beyond the property line from the use of outside runs or exercise areas. Refer to Section 1214.04B.6. et seq.
- 9. Wholesale stores. Refer to Section 1215.05A.(8.,9.,10.), B.3., E. (as applies).
- 10. Outlet and discount stores. Refer to Section 1215.05A.(8.,9.,10.), B.3., E. (as applies).
- 11. Supermarkets/department stores provided that the facilities do not create undue traffic congestion. Refer to Section 1215.05A.(3.,9.,10.,11.), B.3.,E. (as applies).
- 12. Building trade equipment materials and sales including concrete, electrical, masonry, sheet metal, plumbing, heating and other building shops, if conducted in an entirely enclosed building.

- 13. Boarding houses.
- 14. Mini-storage facilities.
- 15. Welding shops.
- 16. Accessory uses and buildings.
- 17. All conditionally permitted uses as allowed in the PRO and LB Districts.
- 18. Restaurants with entertainment or drive-thru facilities.
- 19. All uses marked as "Conditional Uses" in the General Business District (GB) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1249.05 GENERAL REQUIREMENTS OF THE GB DISTRICT.

- A. <u>Maximum Building Height</u>: No building shall be erected or enlarged to exceed 35 feet.
- B. Lot Area and Width: Every lot shall have a minimum width of 250 feet throughout lot, and minimum lot area of not less than two acres (87,120 square feet), exclusive of road right-of-way. A minimum lot size of 20,000 square feet with a minimum frontage of 100 feet shall be allowed when lot is serviced by public water and sewer.
 - C. <u>Setbacks and Yards</u>: For all lots of record, see Section 1285.05C.
 - 1. <u>Front Yard</u>: There shall be a front yard of not less than 75 feet in depth (50 feet in depth with central water and sewer).
 - 2. Side Yard:
 - a. When abutting a non-residential zoning district: Twenty-five (25) feet for structures, ten (10) feet for paved areas.
 - b. When abutting a residential zoning district: Thirty-five (35) feet for structures, twenty-five (25) feet for paved areas.
 - 3. Rear Yard:
 - a. When abutting a non-residential zoning district: Thirty (30) feet for structures, ten (10) feet for paved areas.
 - b. When abutting a residential zoning district: Thirty-five (35) feet for structures, twenty-five (25) feet for paved areas.
 - 4. <u>Corner Lots</u>: The principal building and its accessory structures shall have the same minimum setback distance from all street right-of-way lines as required for the front yard.
- D. <u>Maximum Lot Occupancy</u>: The maximum percentage of the total lot area which may be occupied by both principal and accessory buildings for commercial uses shall be 85%.
- E. <u>Parking and Loading</u>: Parking and loading requirements shall be as regulated in Chapter 1291.
 - F. Signs: Signs shall be as regulated in Chapter 1295.
- G. <u>Trash and Garbage Control</u>: All trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen them from view. Screening of trash and garbage areas shall meet the requirements of Section 1283.06. Container systems shall not be located in front yards.

- H. <u>Bulk Requirements</u>: All structures shall have a minimum of 600 square feet per building unit and not be less than 24 feet in width and depth. All structure requirements for the GB District are to be determined from outside dimensions, exclusive of porches, garages, and cellars or basements.
- I. <u>Screening/Buffer Yards Requirements</u>: Screening/buffer yards shall be required as specified in Chapter 1283. (Ord. 2006-3733. Passed 12-18-06.)

CHAPTER 1251 Light Manufacturing District (M-1)

Purpose. Short name.		Conditionally permitted uses. General requirements of the
Permitted uses.	1201,00	M-1 District.

CROSS REFERENCES

General prohibitions - see GEN. OFF. Ch. 521

Manufacturing defined - see P. & Z. 1203.03

General prohibitions - see GEN. OFF. Ch. 521

Definitions - see P. & Z. 1203.03

Permitted and Conditional Uses - see P. & Z. Ch. 1225.03, 1225.04, 1227.03, 1227.04, 1229.03, 1229.04, 1231.03, 1231.04, 1233.03, 1233.04, 1235.03, 1235.04, 1237.03, 1237.04, 1239.03, 1239.04,1241.03, 1243.03, 1243.04, 1245.03, 1245.04, 1247.03, 1247.04, 1249.03, 1249.04, 1251.03, 1251.04, 1253.03, 1253.04

Oil and gas well regulations - see P. & Z. Ch. 1289

1251.01 PURPOSE.

The purpose of the M-1 District is to encourage the development of manufacturing establishments which are clean and quiet. These establishments must be free of elements which create a nuisance or hazard, such as noise, vibration, smoke, gas, fumes, odor, dust, fire hazard, dangerous radiation or other injurious or obnoxious conditions beyond the premises. Manufacturing operations within the M-1 District shall operate entirely within enclosed structures and shall generate minimum industrial traffic. This district is further designed to act as a transitional use between Planned Manufacturing uses and other less intense businesses. (Ord. 2006-3734. Passed 12-18-06.)

1251.02 SHORT NAME.

The short name and map symbol of the Light Manufacturing District is M-1.

1251.03 PERMITTED USES.

- 1. Agriculture.
- 2. Public parks and playgrounds.
- 3. Recreational sporting facilities.
- 4. Nurseries, horticulture and forestry facilities.
- 5. Furniture and office equipment manufacturing.6. Clothing goods, apparel, and accessory manufacturing.
- 7. Fur and personal leather goods manufacturing.

- 8. Publishing, commercial printing, bookbinding, and related industries.
- 9. Glass products manufacturing, made of purchased glass.
- 10. Utility facilities.
- 11. Electronic components, photographic equipment, computers, accessories, and communication equipment manufacturing.
- 12. Engineering, medical, laboratory, scientific and research instruments and associated equipment manufacturing.
- 13. General warehousing (excluding biohazardous, toxic, or explosive materials).
- 14. All uses marked as "Permitted Uses" in the Light Manufacturing District (M-1) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1251.04 CONDITIONALLY PERMITTED USES.

A conditional use permit may be issued in accordance with Chapter 1215, and the other provisions of these regulations provided that the applicant can demonstrate that the proposed use is consistent with those general principles outlined in Section 1215.04 as well as any additional standards in accordance with any or all of those standards found in Section 1215.05 or other conditions as required by the Board of Zoning Appeals and conditions referred to in the following descriptions:

- 1. Metal cans and containers manufacturing.
- 2. Building materials.
- 3. Household appliance maintenance.
- 4. Vehicle service, storage, and maintenance.
- 5. Food products processing.
- 6. Sign manufacturing.
- 7. Any other industrial use, including operations incidental to such use, which involves manufacturing, processing, packaging, assembly, storage; provided that any noise, vibration, smoke, gas, fumes, odor, dust, fire hazard, dangerous radiation or other injurious or obnoxious conditions related to the operation are not sufficient to create a nuisance beyond the premises.
- 8. Airports heliports (private and governmental). Refer to Section 1215.05B.2.
- 9. Mining of oil or natural gas. Refer to Section 1215.05D.
- 10. All uses marked as "Conditional Uses" in the Light Manufacturing District (M-1) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1251.05 GENERAL REQUIREMENTS OF THE M-1 DISTRICT.

- A. <u>Maximum Building Height</u>: No building shall be erected or enlarged to exceed 45 feet.
- B. Lot Area and Width: Lots serviced by public water and sewer shall have a minimum lot size of 20,000 square feet with a minimum frontage of 100 feet (exclusive of road right of way). In those cases when central water and sewer is not available, two acres (exclusive of road right-of-way) with 200 feet of frontage shall be required.
 - C. Setbacks and Yards: For all lots of record, see Section 1285.05C.
 - 1. <u>Front Yard</u>: There shall be a front yard of not less than 50 feet in depth (75 feet in depth without central water and sewer).

- 2. <u>Side Yard</u>: There shall be a side yard of not less than 25 feet.
- 3. Rear Yard: There shall be a rear yard of not less than 50 feet.
- 4. Corner Lots: The principal building and its accessory structures shall have the same minimum setback distance from all street right-of-way lines as required for the front yard.
- D. <u>Maximum Lot Occupancy</u>: The maximum percentage of the total lot area which may be occupied by both principal and accessory buildings for commercial uses shall be 90%.
- E. <u>Parking and Loading</u>: Parking and loading requirements shall be as regulated in Chapter 1291.
 - F. Signs: Signs shall be as regulated in Chapter 1295.
- G. <u>Trash and Garbage Control</u>: All trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen them from view. Screening of trash and garbage areas shall meet the requirements of Section 1283.06. Container systems shall not be located in front yards.
- H. <u>Bulk Requirements</u>: All structures shall have at least 600 square feet per business unit and not be less than 24 feet in width and depth. All structure requirements for the M-1 District are to be determined from outside dimensions, exclusive of porches, garages, and cellars or basements.
- I. <u>Screening/Buffer Yards Requirements</u>: Screening/buffer yards shall be required as specified in Chapter 1283.
- J. <u>Performance Standards</u>: All uses in the M-1 District, including operations incidental to the primary use (except those conditional uses permitted otherwise), shall operate entirely within enclosed structures. Uses in the M-1 District shall not create or emit any noise, vibration, smoke, gas, fumes, odor, glare, dust, fire hazard, dangerous radiation or other injurious or obnoxious conditions sufficient to create a nuisance beyond the premises.
- K. <u>Siting Criteria.</u> When a use permitted in this district abuts a residential use or district, the structure must be located a minimum of 100 feet from such parcels. (Ord. 2006-3734. Passed 12-18-06.)

CHAPTER 1253 Planned Manufacturing District (PM)

1253.01	Purpose.	1253.06	Performance standards of the
1253.02	Short name.		PM District.
1253.03	Permitted uses.	1253.07	Site design approval.
1253.04	Conditionally permitted uses.		
	General requirements of the PM		
	District.		

CROSS REFERENCES

General prohibitions - see GEN. OFF. Ch. 521 Manufacturing defined - see P. & Z. 1203.03 General prohibitions - see GEN. OFF. Ch. 521 Definitions - see P. & Z. 1203.03 Permitted and Conditional Uses - see P. & Z. Ch. 1225.03, 1225.04, 1227.03, 1227.04, 1229.03, 1229.04, 1231.03, 1231.04, 1233.03, 1233.04, 1235.03, 1235.04, 1237.03, 1237.04, 1239.03, 1239.04, 1241.03, 1243.03, 1243.04, 1245.03, 1245.04, 1247.03, 1247.04, 1249.03, 1249.04, 1251.03, 1251.04, 1253.03, 1253.04 Oil and gas well regulations - see P. & Z. Ch. 1289

1253.01 PURPOSE.

The purpose of the PM District is to encourage the development of major manufacturing, processing, warehousing, and major research and testing operations. These activities require extensive community facilities including adequate utility services, and direct access to arterial thoroughfares. Uses in this district may have extensive open storage and service areas, and generate heavy traffic but shall be prohibited if they create nuisances which exceed the limitations set up by the Planning and Zoning Commission and/or Board of Zoning Appeals.

1253.02 SHORT NAME.

The short name and map symbol of the Planned Manufacturing District is PM.

1253.03 PERMITTED USES.

- Agriculture. 1.
- General warehousing (excluding biohazardous, toxic, or explosive materials). 2.
- Public parks and playgrounds. 3.
- Leather goods manufacturing not elsewhere classified. 4.
- 5. Sheet metal work and fabrication.
- Machine shops, jobbing, and repair.

- 7. Equipment and household appliances manufacturing.
- 8. Electric lighting and wiring manufacturing.
- 9. Miscellaneous electrical machinery, equipment, and supplies manufacturing.
- 10. Musical instruments and parts manufacturing.
- 11. Toys, amusements, sporting and athletic goods manufacturing.
- 12. Pens, pencils, and other office and artist materials manufacturing.
- 13. Research and Testing Operations.
- 14. Paper processing activities, such as printing, excluding paper production.
- 15. All permitted uses in the M-1 District.
- 16. All uses marked as "Permitted Uses" in the Planned Manufacturing District (PM) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08.)

1253.04 CONDITIONALLY PERMITTED USES.

A conditional use permit may be issued in accordance with Chapter 1215, and the other provisions of these regulations provided that the applicant can demonstrate that the proposed use is consistent with those general principles outlined in Section 1215.04 as well as any additional standards in accordance with any or all of those standards found in Section 1215.05 or other conditions as required by the Board of Zoning Appeals and conditions referred to in the following descriptions:

- 1. Bulk storage, provided that all outdoor storage is screened from view of neighboring properties and roads.
- 2. Farm equipment, auto, or aircraft manufacturing.
- 3. Wiring manufacturing.
- 4. Beverage industries.
- 5. Textile manufacturing.
- 6. Floor covering manufacturing.
- 7. Steel manufacturing.
- 8. Nonferrous foundries.
- 9. Recycling industries (indoor operations only).
- 10. Professional or semi-professional sporting facilities.
- 11. Sawmill operations.
- 12. Adult entertainment facilities.
- 13. Mining, processing, and storage.
- 14. Airports and heliports (private and governmental). Refer to Section 1215.05B.2.
- 15. Facilities or areas utilized for the production, processing or sale of marijuana.
- 16. All conditional uses in the M-1 District.
- 17. All uses marked as "Conditional Uses" in the Planned Manufacturing District (PM) as listed in the NAICS Classification and Zoning District Matrix. (Ord. 2008-3843. Passed 7-21-08; Ord. 2015-4237. Passed 10-5-15.)

1253.05 GENERAL REQUIREMENTS OF THE PM DISTRICT.

- A. <u>Maximum Building Height</u>: No building shall be erected or enlarged to exceed 50 feet.
- B. <u>Lot Area and Width</u>: Every lot shall have a minimum width of 500 feet throughout, and a lot area of not less than five acres (217,800 square feet) in area, exclusive of road right-of-way.

- C. Setbacks and Yards: For all lots of record, see Section 1285.05C.
 - 1. Front Yard: There shall be a front yard of not less than 50 feet in depth.
 - 2. <u>Side Yard:</u> There shall be a side yard of not less than 50 feet.
 - 3. Rear Yard: There shall be a rear yard of not less than 50 feet.
 - 4. <u>Corner Lots</u>: The principal building and its accessory structures shall have the same minimum setback distance from all street right-of-way lines as required for the front yard.
- D. <u>Maximum Lot Occupancy</u>: The maximum percentage of the total lot area which may be occupied by both principal and accessory buildings for commercial uses shall be 65%.
- E. <u>Parking and Loading</u>: Parking and loading requirements shall be as regulated in Chapter 1291. On-street parking shall be prohibited at all times.
 - F. Signs: Signs shall be as regulated in Chapter 1295.
- G. <u>Trash and Garbage Control</u>: All trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen them from view. Screening of trash and garbage areas shall meet the requirements of Section 1283.06. Container systems shall not be located in front yards.
- H. <u>Bulk Requirements</u>: All structures shall have 625 square feet per business unit and not be less than 25 feet in width and depth. All bulk requirements for the PM District are to be determined from outside dimensions, exclusive of porches, garages, and cellars or basements.
- I. <u>Screening/Buffer Yards Requirements</u>: Screening/buffer yards shall be required as specified in Chapter 1283 and when required shall not provide less than eight feet of visual screening when installed (for example, a four foot high berm topped with four foot evergreens).
- J. Access: No access to any use within this district shall be from Mill Street or Columbia Road.

K. Siting Criteria:

- 1. When a use permitted in this district other than adult entertainment facilities abuts a residential use or district, the structure must be located a minimum of 100 feet from such parcels.
- 2. When an adult entertainment facility abuts a residential use or district, the structure must be located a minimum of 1,500 feet from such parcels.
- L. <u>Drainage</u>: The amount and rate of runoff from a developed site shall be no greater after development than it was prior to development. The method used to determine this shall be in accordance with the latest version of "Water Management and Sediment Control for Urbanizing Areas" (Available from the U.S. Soil Conservation Service). (Ord. 2006-3733. Passed 12-18-06.)

1253.06 PERFORMANCE STANDARDS OF THE PM DISTRICT.

- A. The following performance standards shall apply for all lots in the PM Zoning District:
 - 1. No industry or other business shall be established, maintained, or permitted which produces objectionable light smoke, dust, noise, odor, or vibration resulting in a nuisance to abutting property owners or to the public in general, pursuant to the criteria in Chapter 1287.

- No property in the district shall be left in an unsightly condition. 2.
- 3. All buildings must be serviced by public water and sewer prior to occupancy.

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4. Before any operation begins, and in order to continue, the facility must meet any and all other local, county, state and federal regulations (including, but not limited to: health, safety, transportation and environmental requirements).

1253.07 SITE DESIGN APPROVAL.

- All Zoning Permits within the PM District shall be approved or denied within ninety (90) days from the date in which a complete application has been submitted. Zoning Permit applications within the PM District will be processed in the following manner:
 - The Zoning Inspector shall review all zoning permit applications to ensure 1. all requirements of Section 1209.04 and this chapter have been submitted.
 - 2. If the Zoning Inspector determines that the application is complete, the Zoning Inspector shall forward the application to the Planning Director for review by the Planning Commission (PC). The PC shall schedule a meeting for review of the application at the next available date. This meeting shall be open to the public, and notice of such meetings shall be provided to the applicant and/or his representative, news media, and any other interested parties as defined by Sections 1211.10 and 1211.11. The PC shall review the zoning permit application and provide a recommendation to the Planning Director whether to approve or deny the zoning permit application. The PC shall recommend approval if the requirements of the Code have been met.

(Ord. 2013-4167. Passed 9-16-13.)

CHAPTER 1255 Planned Development Districts

1255.01	Purpose.	1255.12	Pre-application meeting.
1255.02	Planned district related	1255.13	Zoning amendment request.
	definitions.	1255.14	Final development plans.
1255.03	Provisions governing Planned	1255.15	Planned district application
	Development Districts.		contents.
1255.04	Conflict and interpretation.	1255.16	Concept plan contents, pre-
1255.05	Relationship to City of		application meeting.
	Pataskala Subdivision	1255.17	Contents of Zoning
	Regulations.		Amendment application with
1255.06	Project ownership.		Preliminary Development
1255.07	Establishment of a new		Plan.
	Planned Development District.	1255.18	Final development plan
1255.08	Permitted uses/conditional		contents.
	uses.	1255.19	Criteria for approval of a
1255.09	Minimum project area.		preliminary.
1255.10	Development standards.	1255.20	Criteria for approval of the
1255.11	Procedure.		final plan.
		1255.21	Supplementary conditions and safeguards.

CROSS REFERENCES

Planned development defined - see P. & Z. 1203.03 Home occupations - see P. & Z. Ch. 1267 Conditional uses - see P. & Z. 1215.10

1255.01 PURPOSE.

(a) Planned Development Districts shall include residential, industrial, retail, service, and commercial uses: or a combination of such uses, with appurtenant common areas and accessory uses, customary and incidental to the predominant uses, such as: Planned Residential Development (PRD), Planned Industrial Districts (PID), Planned Commercial Districts (PCD) and Planned Mixed Use Districts (PMD), to promote the progressive development of land and construction thereon; further the purposes of the Planned Development District regulations are to:

Provide for maximum choice of living environments by allowing a variety of housing and building types and permitting dwelling-unit density per acre and lot dimensions, yards, building setbacks, and area requirements which are defined in an individual set of development and operations standards, agreed on by the developer(s) and the City.

- (2) Provide for supporting community facilities and allowing a mix of land uses otherwise not permitted within the standard municipal zoning classifications.
- (3) Provide a more useful pattern of open space and recreation areas, more convenience in the location of accessory commercial and industrial uses and services, and reducing automotive traffic congestion.
- (4) Provide a development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage patterns using sound landscape architecture and engineering practices.
- (5) Provide for more efficient use of land than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets.
- (6) Provide a development pattern in harmony with land use density, transportation facilities, and community facilities objectives of the comprehensive plan.
- (7) Provide unified developments that utilize creativity in planning and design that may not be achieved through standard zoning districts or subdivision regulations, but maintain consistency with all applicable community plans, including but not limited to the Comprehensive Plan.
- (8) Provide for imaginative architectural design, and flexibility in building styles and types.
- (b) The City also is prepared to consider a greater population density through density bonuses in undeveloped areas than reflected by present zoning, provided the developer can demonstrate that any increment of public cost clearly attributable to increased densities will be compensated for by the private amenities and public benefits to be achieved by the plan of the development. (Ord. 2010-3962. Passed 3-8-10.)

1255.02 PLANNED DISTRICT RELATED DEFINITIONS.

- (a) <u>Planned Development District (PDD):</u> A PDD (includes PRD, PCD and PID designations) means an area of land in which a variety of housing types and/or commercial facilities may be accommodated in a pre-planned environment under more flexible standards than those restrictions that would normally apply under this Zoning Code.
- (b) <u>Subarea</u>. A subarea is a distinct area of land within a PDD. Each Subarea shall designate acreage, land use, development standards, architectural standards, landscape standards, thoroughfare Subarea standards, conceptual road alignments, gross density and such other standards as may be required by the Planning and Zoning Commission and Council.
- (c) <u>Master Site Plans.</u> A master site plan is a preliminary development plan for a large scale Planned Development with greater complexity than smaller developments. A master plan is more likely to contain mixtures of many uses; to also reserve land for community facilities and services like churches, schools, emergency services, and government buildings; to provide for layouts of new transportation corridors, not just local circulator streets for the development. A master planned community could almost function as a fully contained, self-sufficient community.

- (d) <u>Preliminary Development Plan.</u> A predevelopment plan is the first required submission to the Planning and Zoning Commission for rezoning to a Planned Development and must contain the elements specified in Section 1255.17. It will contain a basic plan for the entire area to be rezoned and contain sufficient detail to convey the character and intensity of use of the proposed development.
- (e) <u>Final Development Plan.</u> A final development plan is prepared after the successful rezoning of a property to a Planned Development. It shall contain detailed engineering specifications pursuant to the results of all required technical studies such as, but not limited to, traffic, environmental conditions and storm water management, and shall show in sufficient detail how issues illuminated by the technical studies have been addressed and mitigated if necessary. The final development plan shall demonstrate all required changes agreed to during the rezoning process. The final development plan submission is submitted prior to the development of each phase of development, as phasing was shown in the preliminary plan or master site plan. The final development plan shall contain the required elements specified in Section 1255.18. (Ord. 2010-3962. Passed 3-8-10.)

1255.03 PROVISIONS GOVERNING PLANNED DEVELOPMENT DISTRICTS.

- (a) In accordance with Section 1201.03, this chapter is declared to be the minimum requirements applicable to Planned Development Districts in any interpretation and promotion of the public health, safety and general welfare of the community.
- (b) Each Planned Development District shall be considered a separate and unique zoning district wherein a preliminary development plan, including associated text depicting the specific development standards, is adopted simultaneously with the amendment of the zoning map to apply the Planned District designation. The preliminary development plan shall apply only to the property within that particular Planned Development District. The minimum requirements and the special standards described in the Planned Development Text shall be the applicable standards regarding the layout, uses, and development of the Planned Development District. The Planned Development Text shall become a part of the permanent record of development and maintained in the Planning and Zoning Department.

(c) Existing Planned Development Districts:

- Planned Development Districts and all associated development plans and supporting documentation adopted prior to the effective date of these Planned Development District regulations shall continue in effect and be considered legally conforming under this code subject to the provisions of 1255.13, part 13.
- (2) Developers of Planned Development Districts and all associated development plans and supporting documentation adopted, but with construction incomplete, prior to the effective date of these Planned Development District regulations, at their option may elect to modify their development plans consistently with these regulations which were passed subsequently to their approvals, and shall be reviewed according to the procedures for the changes to a preliminary development plan, or a final development plan, as appropriate, and now set forth in Section 1255.14, 1255.18 and 1255.20.

- (d) <u>Terms:</u> For the purposes of this Planned Development code, plans including all supporting documentation adopted at the time of Planned Development rezoning shall be referred to as preliminary development plans, or master site plans for large complex communities, and plans including all supporting documentation approved subsequent to such rezoning shall be referred to as final development plans.
- (e) <u>Changes to Preliminary Development Plans:</u> A change to an adopted preliminary development plan shall be considered to be a zoning amendment and shall be reviewed according to the procedures set forth in Section 1255.13.

(f) Final Development Plans for Planned Districts already in Progress:

- (1) A final development plan shall be required for each phase of development in a Planned Development District. If the construction drawings for a particular phase have already been approved as of the effective date of this subchapter, the completion and submission of a final plat in accordance with Chapter 1113, Subdivision Regulations shall complete that portion of the project.
- (2) An application for review of a final development plan for a Planned development District established prior to the effective date of these Planned Development District regulations shall follow the procedural steps set forth in these: Section 1255.11, shall include the submission requirements set forth in Section 1255.18, and shall be evaluated according to the plan approval criteria set forth in Section 1255.20.
- (3) Final subdivision plats. Applications for final subdivision plats for phases of Planned Development Districts that are yet to be approved or for changes to previously approved plats shall be reviewed according to the subdivision review procedures in Chapter 1113. (Ord. 2010-3962. Passed 3-8-10.)

1255.04 CONFLICT AND INTERPRETATION.

Because of special characteristics of Planned Development Districts, special provisions governing the development of land for this purpose are required. Whenever there is conflict or difference between the provisions of this chapter and those of the other chapters of this Code, the provisions of this chapter shall govern. The Planned Development District regulations assist in accomplishing its stated purposes by establishing review steps that combine the request for a zoning with the development plan review process and where applicable the subdivision process. Subsequent plan review following the zoning amendment also requires simultaneous review of subdivision plats for the project. (Ord. 2010-3962. Passed 3-8-10.)

1255.05 RELATIONSHIP TO CITY OF PATASKALA SUBDIVISION REGULATIONS.

The provisions of the City of Pataskala Zoning Code are in addition to any requirements, procedures and regulations as contained in the City Subdivision Regulations. Nothing in these regulations shall be interpreted as nullifying or superseding the subdivision platting requirements as defined in Ohio R.C. 711.001, and as further defined, administered and regulated in the City Subdivision Regulations. (Ord. 2010-3962. Passed 3-8-10.)

1255.06 PROJECT OWNERSHIP.

The project land may be owned, leased, or controlled either by a single person or corporation, or by a group of individuals or corporations so that all property owners are applicants. Such ownership may be by a public or private corporation. Any transfer of land within the development resulting in ownership within the development by two or more parties after an application has been filed shall not alter the applicability of the regulations contained herein. A preliminary development plan approved in accordance with these or previous regulations for a Planned Development District shall be binding upon the owners, their successors and assigns and shall limit and control the issuance and validity of all certificates of zoning compliance. (Ord. 2010-3962. Passed 3-8-10.)

1255.07 ESTABLISHMENT OF A NEW PLANNED DEVELOPMENT DISTRICT.

Planned Development Districts adopted after the effective date of these regulations shall be established according to the following:

(a) All rezoning to a Planned Development District shall be designated as a Planned Development District (PDD).

(b) The owner must make a written application to rezone the land to a Planned

Development District.

(c) The preliminary development plan shall be reviewed by the Planning and Zoning Commission, followed by the City Council, according to Section 1255.11 and 1255.13 and the preliminary development plan and supporting documentation shall be adopted at the time of rezoning.

(d) Detailed final development plans shall be reviewed and acted upon by the Planning and Zoning Commission according to Sections 1255.14, 1255.18, and 1255.20.

(Ord. 2010-3962. Passed 3-8-10.)

1255.08 PERMITTED USES/CONDITIONAL USES.

- (a) <u>PRD: Planned Residential Development.</u> Planned Residential Districts- All permitted, conditional, accessory, incidental and common area uses for the development, including whether or not those uses are confined to subareas of the development, shall be described and listed in the development text. Subareas shall be shown on the submitted Development Plan Drawings. Planned Residential Districts shall have a minimum of 60% of developable area devoted to residential uses.
- (b) <u>PCD: Planned Commercial Districts.</u> Planned Commercial Districts shall include permitted, conditional, accessory, incidental and common area uses for the development, including whether or not those uses are confined to subareas of the development, as described and listed in the development text. Subareas shall be shown on the submitted Development Plan Drawings. Planned Commercial Districts shall have a minimum of 60% of developable area devoted to commercial, retail and service uses.
- (c) <u>PID: Planned Industrial Districts.</u> Planned Industrial Districts shall include permitted, conditional, accessory, incidental and common area uses for the development, including whether or not those uses are confined to subareas of the development, as described and listed in the development text. Subareas shall be shown on the submitted Development Plan Drawings. Planned Industrial Districts shall have a minimum of 60% of developable area devoted to industrial uses.

(d) <u>PMD: Planned Mixed Use Districts.</u> All permitted, conditional, accessory, incidental and common area uses for the development, including whether or not those uses that may be confined to subareas of the development, shall be described and listed in the development text. Subareas shall be shown on the submitted Development Plan Drawings. Planned Mixed Use Districts shall have a maximum of 50% of developable area devoted to any given use. (Ord. 2010-3962. Passed 3-8-10.)

1255.09 MINIMUM PROJECT AREA.

There shall be no minimum size subject to the Planning and Zoning Commission's approval and assessment of project feasibility and appropriateness. (Ord. 2010-3962. Passed 3-8-10.)

1255.10 DEVELOPMENT STANDARDS.

- (a) <u>Density.</u>
 - (1) Tracts of land shall have the same applicable gross density of dwellings per acre, as prescribed by the base zoning classification(s) associated with the property prior to rezoning to a Planned Development.
 - (2) Density bonuses may be approved by the Planning and Zoning Commission according to an adopted Density Bonus Policy, which from time to time may be revised as appropriate. Density bonuses may be awarded to compensate the developer for the additional costs associated with the provision of important or needed community amenities, which might include but not be limited to: additional open space, donations of land or assets to the public schools, donations of land or assets for community facilities, public art, recreational equipment, enhanced landscaping, use of energy saving, pollution reduction or waste reduction in planning and construction of the development.

(b) <u>Common Open Space.</u>

- Area Required: A minimum of 35%, depending upon type of feature being preserved, of the land developed in any Planned Development District project shall be reserved for common open space and recreational facilities for the residents or users of the area being developed. No acreage associated with PDD property perimeter setbacks may be counted toward the open space requirement. No more than 10% of the open space requirement may be comprised of acreage designed for use by storm water detention, storm water retention or storm water quality structures.
- (2) <u>Disposition of Open Space</u>: The required amount of common open space land reserved under Planned Development Districts may be held in joint ownership by owners of the project; be dedicated to the City, public school district(s), or other taxing authority, and retained as common and public open space for parks, recreation, and related uses. All land dedicated to the City, or school district(s) must meet the Planning and Zoning Commission's requirements as to size, shape and location. Public utility and similar easements and rights of way for watercourses and private deed restricted open space (yards) may be acceptable for common open space unless such land or right-of-way is not usable as trail or other similar purpose as approved by the Planning and Zoning Commission. The responsibility for

the maintenance of all open spaces shall be specified by the developer in the Development Text before approval of the final development plan. The Development Text shall also include exit strategies, or "Plan B" strategies for maintenance, in the event of business failure of the designated maintenance agency, or in the event of non-performance of the designated maintenance agency.

- (c) <u>Arrangement of Residential Lots to Abut Upon Common Open Space in PDD's.</u> A minimum of 50% of dwellings in PDD's shall have direct access to or abut common open space. A clustering of dwellings is encouraged.
- (d) <u>Arrangement of Commercial Uses.</u> In Planned Commercial Districts, commercial buildings and establishments shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential accident locations at intersections with thoroughfares. Planting screens or fences shall be provided on the perimeter of the commercial areas abutting residential areas.

(e) Arrangement of Industrial Uses.

- In a Planned Industrial District, industrial uses shall be developed utilizing landscaping and existing woodlands as buffers to screen lighting, parking areas, loading areas or docks, and/or outdoor storage of raw materials or products. A Planned Industrial District shall provide for the harmony of buildings and a compact grouping in order to economize in the provision of such utility services as the area requires. Use of thoroughfares shall be kept to a minimum throughout a Planned Industrial District in order to reduce through traffic.
- (2) Side yards must have a minimum of 50 feet and a rear yard of 100 feet feet shall be required if the project is located adjacent to any residential uses (on the side that abuts the residential use). All intervening spaces between the right-of-way line and project building line and intervening spaces between buildings, drives, parking areas, and improved areas shall be landscaped with trees and plantings and properly maintained at all times.
- (3) Industrial areas adjacent to residential areas shall be separated by dense plantings and decorative fencing of at least 7 feet in height.
- (f) <u>Utility Requirements.</u> New utilities, including telephone, electrical systems, and central water and sewer systems, are required to be constructed underground within the limits of the Planned Development District. Appurtenances to these systems which can be effectively screened may be exempted from this requirement if the Planning and Zoning Commission approves. The responsibility for the maintenance of all utility easements shall be specified by the developer, through submission of proposed agreements, contracts, operating plans and other such documents as may be required, before approval of the final development plan.

(g) <u>Minimum Lot Sizes.</u>

- (1) The minimum lot area per dwelling unit shall be provided by the developer in the "development text" subject to provision of sufficient evidence to the Planning and Zoning Commission and the City Council that the overall development demonstrates appropriateness in design by properly considering: significant and meaningful open space, significant natural and historic features, topography, natural drainage patterns, roadway access and circulation, surrounding land uses, the enhancement of the general welfare of the public, and aesthetically desirable land development. Attractive landscape buffers shall be provided between incompatible land use and activities.
- (2) Lot widths shall be varied to allow for a variety of structural designs. Setbacks proposed shall be appropriate to the development and its surroundings as approved at the discretion of the Planning and Zoning Commission. Minimum side yards between structures shall be sufficient for adequate access by emergency vehicles, no less than 16 feet between buildings.
- (h) <u>Height Requirements.</u> Building heights over 35 feet shall require increased yard depths in the district, such that,
 - (1) Each additional foot in building height over 35 feet, shall require the addition of one foot to the minimum side yard between buildings
 - Buildings over 35 feet shall have a minimum rear yard, exclusive of paving and parking lots, equaling the height of the building, subject to requirements for maximum impervious surfaces in subsection (i), below.

(i) Maximum Impervious Surfaces:

- (1) For each area proposed for residential uses in the development, the amount of impervious surface coverage must not exceed 50% of each residential area
- (2) For areas proposed for commercial, office, or uses mixed in vertical arrangement, in the development, the amount of impervious surface coverage must not exceed 80% of each such area:
- (3) For all areas proposed or industrial uses in the development, the amount of impervious surface coverage must not exceed 85% of total industrial area and at least 5% of the lot area, exclusive of parking areas and public rights-of-way shall be devoted to yard space, or pedestrian space.
- (4) Impervious surfaces include but are not limited to, parking areas, loading areas, and rooftops. Use of pervious concrete pavers and other pervious surfaces in parking areas, sidewalks and plazas is encouraged and may be applied as a proportional offset to meet the total area of pervious cover requirement up to 30%. Additional pervious surfaces may be approved by the Planning and Zoning Commission as a basis for density bonuses as deemed appropriate. Thus use of pervious surfaces in 25% of total area of parking, sidewalks and plazas, may be used to reduce by 25% the required pervious areas defined in paragraphs (1), (2) or (3) above, but in no case shall reduce the 5% yard or pedestrian space required in paragraph (3) above.

- (j) <u>Parking.</u> Off-street parking, loading, and service areas shall be adequate to serve the needs of the development. Parking lots shall have vegetative or decorative fencing screens of 30" tall between the lot and the street. Parking areas serving non-residential areas shall provide 100% opaque screens of minimum 7 feet in height if abutting residential areas, other residential zones or uses. However, off-street parking and loading areas shall not be permitted within 25 feet of any residential area, except those serving multifamily areas within the development.
- (k) Trash handling areas for all non-residential and multifamily use shall be set on paved pads and enclosed by masonry walls on three sides, with lockable 100% opaque gates. (Ord. 2010-3962. Passed 3-8-10.)

1255.11 PROCEDURE.

- (a) The owner(s) or Lessee(s) of a tract of land may make application to amend the Zoning District Map to include the tract in the Planned Development District in accordance with the provisions of Chapters 1217 and 1255.
 - (b) The process in a PDD shall consist of:

(1) Pre-Application meeting

(2) Rezoning Application which includes the Preliminary Development Plan (or a Master Site Plan for large developments of 100 acres or more).

(3) Final Development Plan which shall consist of detailed development and

engineering plans for a subarea or portion of a subarea.

(4) The contents of each stage of the PDD process are put forth in Section 1255.15, 1255.16, 1255.17 and 1255.18.

(c) Plat required. Any proposed planned development that includes the subdivision of land shall be subject to the requirements of the plat approval process in accordance with Chapter 1113, Subdivision Regulations. The preliminary plat approval and preliminary plan approval may proceed simultaneously. Final plat approval and final development plan approval shall proceed simultaneously, unless a final plat has already been approved, or is not required. (Ord. 2010-3962. Passed 3-8-10.)

1255.12 PRE-APPLICATION MEETING.

A developer shall meet with Planning and Zoning Department staff prior to the submission of the Application for Zoning Amendment and Preliminary Plan. At the Pre-application meeting the developer will present a Concept Plan; a conceptual plan that outlines the basic scope, character and nature of a proposed project. The review is to allow for input in the formative stages of design. The contents of the Concept Plan are indicated in Section 1255.16.

(a) The purpose of this meeting is to discuss early and informally the purpose and effect of this Code and the criteria and standards contained herein, and to familiarize the developer with the comprehensive plan, and master thoroughfare plan, the parks and public open space plan, the Subdivision Regulations, and the drainage, sewer, and water systems of the City of Pataskala. No statements by City officials made in such informal meetings shall be binding on either party, nor shall any opinions or suggestions provided on any aspect of the pre-application meeting be relied upon by the applicant to indicate subsequent approval or disapproval by the City.

- (b) Planning and Zoning Department Staff shall forward projects to the Planning and Zoning Commission for their review and feedback. This opportunity to review is not a public hearing, and need only be included on the meeting agenda.
- (c) The applicant may request review and feedback from the Planning and Zoning Commission and/or City Council prior to preparing the Preliminary Development Plan and Application for Zoning Amendment regardless of project size. This opportunity to review is not a public hearing and feedback does not constitute legislative action. (Ord. 2010-3962. Passed 3-8-10.)

1255.13 ZONING AMENDMENT REQUEST.

- (a) Zoning Amendment Request (rezoning application). An application for rezoning to a PDD shall be submitted according to the basic hearing and notification processes of Chapter 1217 however only the requirements for submission outlined in Chapter 1255.17 shall apply. Generally, in addition to the requirements for rezoning applications, there shall be submitted a Preliminary Development Plan (or Master Plan) for the total development, Development Standards Text and supporting documentation as required. Council must approve the zoning change, Preliminary Plan and Development Standards Text in order for rezoning to a PDD becomes effective.
- (b) <u>Review Procedures.</u> The Preliminary Development Plan or Master Plan as applicable, the Zoning Amendment Request and all submission requirements as set forth in Section 1255.17 shall be reviewed and distributed according to the following procedures. A preliminary subdivision plat may be reviewed simultaneously provided all the required plat information is submitted.
 - (1) <u>Staff Review.</u> Staff shall determine if an application is complete according to this Chapter, after which, staff shall forward the application to the appropriate City departments and if necessary professional consultants for review and comment.
 - (2) The application shall be reviewed for compliance with the City Comprehensive Plan and other adopted plans or studies, the requirements of this code and other applicable City codes.
 - Ouring the review process, staff may meet with the applicant to review the application, and the applicant may revise the Preliminary Development Plan or Master Plan as applicable, and Zoning Amendment application in response to staff's comments.
 - (4) Within 45 days of the application being deemed complete or an extended time if agreed to by the applicant, the application shall be placed on the agenda for a public hearing during a regularly scheduled meeting of the Planning and Zoning Commission, and the application and all supporting documents shall be transmitted to the Commission.

 (Ord. 2010-3962. Passed 3-8-10.)
 - Written notice of the public hearing to be held for a zoning amendment request shall be mailed to all adjoining property owners of record within 300 feet of any property line of the subject property by first class mail, and given in one (1) or more newspapers of general circulation in the City at least 10 days before the date of the public hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed zoning amendment request. Notice of the public hearing shall be mailed by the Planning and Zoning Department by first class mail. Failure to deliver notice, as provided in this section, shall not invalidate any action taken by the Planning and Zoning Commission.

(Ord. 2017-4298. Passed 11-20-17.)

- (6) Review by Planning and Zoning Commission. The Planning and Zoning Commission shall review the application to determine if it complies with the approval criteria set forth in Section 1255.19. The Planning and Zoning Commission will take into consideration any submitted staff reports, comments and other expert opinions when reviewing the application.
- (7) Additional Information. The Planning and Zoning Commission may request additional information they deem necessary to adequately review and evaluate the proposed development, and/or may require the applicant to revise elements of the application. In this event, the Planning and Zoning Commission may table the application.
- (8) Request for Fixed Hearing Date. After the elapse of 30 days after the Planning and Zoning Commission tables a PDD case, the applicant may make a written request to the Director of Planning for a fixed hearing date. The case will be scheduled for the next regular meeting of the Planning and Zoning Commission. If an applicant requests to table their application at this stage, it must be brought back to the Planning and Zoning Commission within six (6) months of the meeting. If the applicant fails to bring the matter back to the Commission within six months, the Commission may deny the application and future action would require a new updated application to be filed. The Zoning Clerk shall make reasonable effort to provide the applicant a written 30 day notice that the six month period is about to expire.
- (9) <u>Action by Planning and Zoning Commission.</u> The Planning and Zoning Commission shall recommend to City Council one of the following:
 - A. That the Zoning Amendment, consistent with the Preliminary Development Plan/ or Master Plan and its supporting documentation be approved as submitted (including as revised to that date);
 - B. Or, that the Zoning Amendment, consistent with the Preliminary Development Plan/ or Master Plan, and its supporting documentation be approved with specific conditions set forth by the Planning and Zoning Commission, and agreed to by the applicant, to further protect and improve the proposed and surrounding developments; such agreement documented by a signature on a typed document detailing the conditions; or,
 - C. Or, that the Zoning Amendment, and its Preliminary Development Plan/ or Master Plan be disapproved.
- (10) Transmission to City Council. The Planning and Zoning Commission shall transmit the Zoning Amendment application and the Preliminary Development Plan/ or Master Plan in the form of an ordinance along with all appropriate documentation, including their recommendation to City Council, within 15 days of taking action, unless otherwise requested by the applicant.
- (11) Action by City Council. City Council shall review and act on the proposed ordinance(s) including conducting a public hearing, in accordance with City Council procedures and public notice provisions set forth in Chapter 1217 of the Zoning Code.
 - A. City Council shall review the ordinance(s) as recommended by the Planning and Zoning Commission.

- B. Disapproval by City Council shall terminate the process. Another zoning amendment application pertaining to the land included in the disapproved application shall not be accepted within one year from the date of disapproval unless there has been substantial change to warrant reconsideration.
- C. Approval of the Planned Development District/ Preliminary Development Plan shall result in the adoption of the ordinance(s) and shall constitute a rezoning of the property included in the Preliminary Development Plan and all associated commitments become binding on the applicant as outlined in subsection (b)(11)E. below.
- D. The official Zoning Map shall be amended to reflect the zoning change.
- E. If City Council approves the Preliminary Development Plan portion of the application with modifications, the applicant shall incorporate such modifications in the appropriate documents and file the revised Preliminary Development Plan with the staff. No final development plan application will be processed until the revised preliminary development plan is submitted and approved.
- (12) <u>Effect of Plan Approval.</u> Approval, or approval with recommended modifications of the application for Zoning Amendment with Preliminary Development Plan for a Planned District by the City Council shall:
 - A. Establish the appropriate Planned District zoning on the property together with the development framework for the project, including the general location of open space, use sub-areas, densities, unit types, recreational facilities, and street alignments.
 - B. Permit the applicant to proceed with detailed planning and engineering of the final development plan;
 - C. Authorize the applicant to apply for other regulatory approvals for the project or subsequent phases thereof.
- (13) Expiration of Preliminary/Master Plan Approval. Given the nature of the Planned Development District process and the unique standards simultaneously adopted, the Preliminary/Master Plan approved specific to the Planned Development District designation shall remain valid for twelve months from the date of City Council approval. During that time the applicant shall prepare and submit a Final Development Plan for review in compliance with Section 1255.18 below. In the event progress on the Preliminary Plan, or plans for the PDD is discontinued, the City may begin procedures to rezone the property to the zoning district in place prior to the Planned Development District or to another district as may be determined appropriate.

For the purpose of this section, progress shall be considered discontinued when:

- A. The Final Development Plan for the PDD, or for the first phase of the PDD, is not submitted within twelve months after approval by City Council of the Preliminary Development Plan;
- B. The Final Development Plan for the PDD, or for the latest phase of the PDD is approved, but construction authorized by such final development plan is not begun within twelve months after approval of the Final Development Plan; or

- C. A Final Development Plan for the PDD is approved, and actual construction work is discontinued for a period of twenty-four months or for a longer period as may be agreed to as part of the PDD zoning amendment.
- D. At any time, City Council may grant an extension to the above stated timeframes for good cause if shown. A request for time extension shall be made in writing to City Council, with copies to the Planning and Zoning Commission, stating the good cause for the delay and plans for resumption of the project. City Council may request additional information as prudent to protect the interests of the City and as relevant to the project.
- At the time of adoption of this chapter, any PDD projects with E. discontinued progress as defined in this section and with approved Preliminary or Final Development Plans, or with discontinued construction per A. B. or C. above, shall retain such approvals. but subject to consideration that the applicable date of this ordinance shall be considered the most recent approval, or start of construction as applicable. At any time from the passage of this ordinance till the expiration of the step described in either A. B. or C. above, the applicant may submit a request for an extension as described in part D, above. The Zoning Clerk shall notify the developers of all PDD projects with discontinued progress at the time of this ordinance of this amended ordinance. Further, the Zoning Clerk shall then notify these projects at least 30 days prior to the expiration of this time period if progress remains discontinued, advising them of the need to apply for an extension per part D. above. (Ord. 2010-3962. Passed 3-8-10.)

1255.14 FINAL DEVELOPMENT PLANS.

An application for Final Development Plan review shall include the submission requirements set forth in Section 1255.14 and 1255.18, and shall be submitted for review according to the following. A Final Development Plan for each phase of development must be approved by the Planning and Zoning Commission. The applicant shall also submit a final subdivision plat for simultaneous review unless a final plat has already been approved, or is not required for the completion of the project.

Any changes approved during the processes outlined in this section shall be indicated on an amended final development plan. An application for an amended final development plan shall follow the review procedures for final development plan review as set forth in Section 1255.14(c) of this Chapter. Approved amendments to final development plans shall supersede the originally approved final development plan.

(a) The area included in the application for Final Development Plan review shall be in substantial compliance with the phasing plan approved as part of the preliminary development plan.

- (b) The application shall be reviewed according to the following procedures:
 - (1) Staff Review. Staff shall determine that an application is complete according to Section 1255.18, upon which staff shall forward the application to the appropriate City departments, and if determined necessary, professional consultants for review and comment.
 - A. The application shall be reviewed for compliance with the approved Preliminary Development Plan, the other requirements of this code and other applicable codes.
 - B. Staff may further meet with the applicant during review to consider the application, and the applicant may revise the final development plan application in response to staff comments.
 - C. The application, supporting documents, staff comments, any other reports and accompanying documents (such as, but not limited to, letters from residents and maps) shall be transmitted to the Planning and Zoning Commission.
 - (2) <u>Planning Commission Prescreening.</u> The Planning and Zoning Commission shall review the application to determine if it complies with the approval criteria set forth in Section 1255.20. This step does not require a public hearing. The Commission shall take into consideration any submitted staff reports when reviewing the application.
 - A. The Planning and Zoning Commission may request additional information they deem necessary to adequately review and evaluate the proposed Final Development Plan, and may request the applicant to revise elements of the application. In this event, the Commission may table the application.
 - B. Tabled cases. After the elapse of 30 days of a tabled case, the applicant may provide written request to the Zoning Clerk for a fixed hearing date. The case will be scheduled for the next regular meeting of the Planning and Zoning Commission.
 - C. Conditional use review. Requests to include conditional uses shall be considered by the Planning and Zoning Commission as authorized in Section 1215.10.
 - D. Compliance with Preliminary Development Plan/ or Master Plan. The Planning and Zoning Commission shall determine if the Final Development Plan substantially complies with all specific requirements, the purposes, intent and basic objectives of the Preliminary Development Plan, and any commitments made or conditions agreed to with the adoption of the Preliminary Development Plan, and whether it represents an expansion and delineation of the approved Preliminary Development Plan.
 - (3) <u>Detailed Review.</u> If the Planning and Zoning Commission determines that the proposed Final Plan complies with the approved Preliminary Plan it shall conduct a review of the Final Development Plan in accordance with the procedures of this section.

- A. The Planning and Zoning Commission may, during its review of the Final Development Plan, approve a modification of a provision of the development standards text if they determine that all of the following provisions are satisfied:
 - 1. That for this Planned Development District strict compliance with this code is not needed in order to ensure that the PDD is consistent with the City Comprehensive Plan and is compatible with existing, approved or planned adjacent development;
 - 2. That the proposed modification does not significantly alter the list of permitted or conditional uses, cause an inappropriate increase in density or cause inconsistencies with the City Comprehensive Plan;
 - 3. The proposed modification results in a development of equivalent or higher quality which could be achieved through strict application of the requirement(s);
 - 4. The principles of Section 1255.10 "General Development Standards" are achieved; and
 - 5. The development, as proposed on the Final Development Plan, will have no adverse impact upon the surrounding properties or upon the health, safety or general welfare of the community.
 - 6. Proposed modifications to the Preliminary Development Plan that fail to meet all the above shall require an amendment to the Preliminary Development Plan as a rezoning process.
- B. Compliance with current City-wide standards. In the event that development or construction standards that apply City-wide are updated, all subsequently approved final development plans shall comply with the updated standards when the Planning and Zoning Commission determines that such updated standard(s) will not cause undue hardship.
- (4) <u>Action.</u> The Planning and Zoning Commission shall take one of the following actions:
 - A. Approve the Final Development Plan as submitted;
 - B. Approve the Final Development Plan with modifications as agreed to by the applicant; or
 - C. Disapprove the Final Development Plan when the application does not demonstrate that the required standards have been met. Disapproval of the Final Development Plan shall terminate the process. The applicant may revise the final development to respond the Planning and Zoning Commission's concerns and resubmit the plan. Such action shall be considered a new application for review and shall contain all the information required for final development plan review, including payment of a new application fee.

- (c) Modifications to approved final development plans. Applicant requests to modify approved final development plans will be reviewed according to the following:
 - (1) Administrative approval. The Director of Planning, in administering approved final development plans may authorize minor design modifications, subject to the limitation of subsections (c)(2) or (3) below, that are required to correct any undetected errors and/or that are consistent with the purpose of the approved final development plan.
 - (2) Such administrative modifications shall not allow increases in intensity of development or additions to the list of permitted or conditional uses. Such modifications shall be limited to:
 - A. Minor adjustments in lot lines provided no additional lots are created.
 - B. Minor adjustments in location of building footprints and parking lots provided the perimeter setbacks, yards and buffers remain in compliance.
 - C. Minor adjustments in building heights.
 - D. Substitution of landscaping materials.
 - E. Redesigning and/or relocating stormwater management facilities.
 - F. Redesigning and/or relocating mounds.
 - G. Minor modifications to the design of signs, including the sign face, and sign lighting, provided the color palette, maximum sign area and maximum sign height, approved in the final development plan are not exceeded.
 - H. Minor changes in building material that are similar to and have the same general appearance as the material approved on the final development plan.
 - (3) The Director of Planning shall report any administrative approved modifications to the Planning and Zoning Commission.
- (d) <u>Planning and Zoning Commission.</u> Modifications other than those listed in part (c)(1), or (c)(2) above shall be submitted to the Planning and Zoning Commission. If during their review they determine that the modifications are compatible with the surrounding development and that they are not requirements that are necessary to ensure consistency with the preliminary development plan, the Planning and Zoning Commission may approve such change.
- (e) Zoning and Building Permits. Following the approval of the final development plan, and recording of the final subdivision plat if applicable, the applicant may proceed with the application process for certificate of zoning compliance and building permit process, consistent with approval as granted, including any conditions and modifications made by the Planning and Zoning Commission.
 - (1) After approval of the final development plan, the applicant shall obtain a certificate of zoning compliance and building permits, prior to construction of any structures.
 - (2) However, a certificate of zoning compliance shall not be issued until the appropriate final plat has been recorded and the City has accepted any applicable land areas that are to be dedicated to the City, including streets and utility improvements. No zoning certificate of occupancy shall be granted prior to the City's acceptance of public infrastructure serving that

structure. All required covenants, easements and restrictions shall be recorded prior to the approval of any construction permit in a location where such covenants, easements, or restrictions are intended to apply. The developer shall present a copy of the recorded documents prior to applying for any construction permits.

(3) All construction and development under any building permit shall be compliant with the approved Final Development Plan, except as may be authorized under Parts (c), (d) or (e) above. Any unauthorized departure from the approved plans shall be cause for revocation of the certificate of zoning compliance. (Ord. 2010-3962. Passed 3-8-10.)

1255.15 PLANNED DISTRICT APPLICATION CONTENTS.

- (a) The following described contents shall be provided to secure rezoning and approval for Planned Development District zoning. The basic process shall require submittal and approval of:
 - (1) Pre-application meeting-Concept Plan.
 - (2) Rezoning Application and Preliminary Development Plan/ or Master Site Plan (for large complex developments).
 - (3) Final Development Plan (upon approval of the Preliminary Development Plan/ Master Site Plan).
 - (4) Required fees, deposits and charges.
- (b) Fees and Charges. The applicant shall be responsible for all reasonable expenses incurred by the City of Pataskala in reviewing the preliminary and final development plans or any modifications to those plans. Such expenses may include items such as the cost of professional services, including legal fees and the fees for the services of other professionals such as geologists, landscape architects, planners, engineers, environmental scientists, and architects, incurred in connection with the reviewing of the plans and prepared reports, the publication and mailing of public notices in connection therewith, and any other reasonable expenses attributable to the review of the plans. A base fee, as determined by the City of Pataskala should be established in accordance with the City of Pataskala Fee Schedule. (See Chapter 1207 Appendix). (Ord. 2015-4211. Passed 3-2-15.)

1255.16 CONCEPT PLAN CONTENTS, PRE-APPLICATION MEETING.

(a) The applicant and their representatives should schedule the pre-application meeting through the Planning Director, and should indicate that the purpose of the meeting is to review the concept plan for a proposed planned district. The materials submitted for the pre-application meeting should generally provide a conceptual overview of the proposed project. Information should be comprehensive enough to provide staff an understanding to the existing site conditions and the concept for the proposed development. The applicant should be prepared to discuss the nature of the proposed land uses including specific types (e.g. two-family dwellings, local businesses, golf course, etc.), and the clientele which it is designed to serve (e.g. public, residents only, retirees, etc.). The applicant shall submit five (5) copies as determined by the Director of Planning. If the project is complex enough to require referral to Planning and Zoning Commission at this stage as per 1255.10, (b) above, the applicant shall provide an additional ten (10) copies. The information provided should, at a minimum include the following: (inclusion of aerial photos and an electronic file in pdf format of submitted materials is highly encouraged):

- (1) A vicinity map; Show accurate boundaries of the entire project; North point and scale; Location of the site in the City; including general location of principal thoroughfares.
- A regional context map; indicating the proposed site and all areas within 2,000 feet in all directions; showing the basics of the proposed layout of the project and property lines of the adjacent areas on a drawing of 11 inches X 17 inches.
- (3) An existing conditions map; with features drawn to scale, showing accurate boundaries of the entire project and a north arrow, including the property proposed for development, all adjacent rights of way and for 100 feet of property immediately adjacent thereto, indicating:
 - A. Existing location of any public improvements, and public or private utility systems, roads and thoroughfares;
 - B. General topography;
 - C. Existing buildings and permanent facilities;
 - D. Existing zoning district boundaries and jurisdictional boundaries;
 - E. Existing easements, rights-of-way, abutting property boundaries;
 - F. Physical features and natural conditions of the site including the location of open spaces, streams, ponds, substantial tree masses and preservation zones; or potentially historic structures;
 - G. Surface drainage and areas subject to flooding, including National Flood Hazard Designations; Wetland delineation as submitted to the Army Corps of Engineers;
- (b) The concept plan: drawn to scale and with accurate boundaries of the entire project, a north arrow, including the property proposed for development, all adjacent rights of way and 100 feet of property immediately adjacent thereto, indicating:
 - (1) A subarea plan which shows proposed land uses, indicating acreage by land use, type and density of buildings or dwelling units;
 - (2) General location of any lands to be dedicated to any public entity;
 - (3) The general circulation pattern;
 - (4) The relationship of the proposed project and how it will functionally integrate with the surrounding area. (Ord. 2010-3962. Passed 3-8-10.)

1255.17 CONTENTS OF ZONING AMENDMENT APPLICATION WITH PRELIMINARY DEVELOPMENT PLAN.

- (a) The Zoning Amendment Application: an application for rezoning to a Planned District shall be submitted according to the processes of Chapter 1217, however only the requirements of submission listed in this Chapter shall apply.
 - (1) The Zoning Amendment and Preliminary Development Plan Application for a Planned District shall be a single application step.
 - (2) Where requirements of this Section overlap with the requirements of Chapter 1217, a single set of maps and documents may be submitted as part of the Zoning Amendment and Preliminary Development Plan for a Planned District request.

- (3) The applicant shall submit 15 copies of the application materials, which shall include: (inclusion of aerial photos and an electronic file in pdf format of submitted materials is highly encouraged):
 - A. Completed application form and application fee.
 - B. A vicinity map showing the relationship of the proposed Planned District to existing development and including existing; property lines, easements, utilities, and street rights-of-way of the subject property and property within 200 feet of the site, zoning district boundaries, and existing land uses and structures.
 - C. A regional context map; indicating the proposed site and all areas within 2,000 feet in all directions; showing the basics of the proposed layout of the proposed project and property lines of the adjacent areas on a drawing of 11 inches X 17 inches in size.
 - D. A legal description of the property including County Auditor parcel numbers.
 - E. A map of existing conditions and features drawn to scale, with accurate boundaries of the entire project and north arrow, including:
 - 1. Boundaries of the area proposed for development, dimensions and total acreage;
 - 2. Existing public rights-of-way, buildings, permanent facilities, access points and easements on, and adjacent to, the site:
 - 3. Identification of any existing buildings or structures to be removed or demolished;
 - 4. Existing zoning district boundaries and jurisdictional boundaries;
 - 5. Existing utility systems and providers;
 - 6. The location of existing topography showing contour lines at vertical intervals of not more than 5 feet, highlighting ridges, rock outcroppings and other significant topographical features and identifying any areas with slopes over 5%;
 - 7. Locations of all wooded areas, tree lines, hedgerows, and a description of significant existing vegetation by type of species, health and quality.
 - 8. Existing drainage patterns on the property including connections with farm tiles on adjacent properties,
 - 9. Locations of wetlands and potential wetlands, the 100 year floodplain, floodway boundary, 20 foot buffer beyond the floodway, and flood elevation as provided by the most recent Federal Emergency Management Agency mapping, including rivers and streams and their related river or stream bank, pond, and water courses,
 - F. The Preliminary Development Plan map shall include a plan for the entire area of the proposed Planned District Project and shall be drawn to an appropriate scale with accurate boundaries of the entire project including a north arrow. The applicant shall also provide 13 copies or the number determined necessary by the Director of Planning. The Preliminary Development Plan portion of the application shall include:

- 1. The proposed location, use and size of sub-areas of residential, retail, office, industrial uses, community facilities, parks, playgrounds, school sites and other public areas and open spaces with the suggested ownership and maintenance provisions of such areas, and their related parking areas and access points.
- 2. The general layout of the proposed internal road system, indicating the proposed vehicular right of way of all proposed public streets, general indication of private streets and pedestrian circulation, bike paths and other trail systems, access drive locations, improvements to existing streets, and traffic control requirements.
- 3. Any proposed off-site improvements and/or utility lines/extensions needed to serve the site;
- 4. Environmental plan showing natural features and preservation zones
- 5. Natural areas and other natural, historic or significant features to be conserved and any required buffer areas;
- 6. Natural features to be altered or impacted by the development and areas where new landscaping will be installed, etc.
- 7. A summary table showing total acres of the proposed development; the number of acres devoted to each type of land use, including streets and common areas; the number of dwelling units by type and density for each residential use area and the building height(s) and square footage as proposed for retail, office, industrial and institutional uses, by use area; and the number of parking spaces provided for each use area; Estimated total population, size, employment or other measurements of the scale of the project at each phase and at buildout;
- 8. The provision of water, sanitary sewer;
- 9. The schedule of site development, construction of structures and associated facilities. Such schedule shall include the proposed use or reuse of existing features such as topography, streets, easements and natural areas;
- 10. Proposed buffers between incompatible land uses and activities:
- 11. Included with the site plan shall be the proposed location and proposed character of all signs for the entire development (sign master plans are encouraged);
- 12. A letter of communication from the appropriate school district regarding any residential development included in the Planned Development District;
- 13. Space for signatures of the applicant and the Chair of the Planning and Zoning Commission, and for the dates of Planning and Zoning Commission and City Council approvals;

- G. Development Standards Text; a development standards text document including the special requirements that will govern the design and layout of the proposed Planned District, including: Architectural guidelines for each subarea, or phase;
 - 1. Architectural drawings demonstrating the prototypical design of the proposed buildings, to demonstrate the exterior design, character and general elements in sufficient detail to indicate the proposed visual character of the development.
 - 2. Including signature and date lines for the applicant, certifying the text
 - 3. Dimensions and or acreages illustrated on the development plan shall be described in the development standards text.
 - 4. Any provisions that depart from applicable standards set forth in the City of Pataskala Zoning Code addressing signage, landscaping, appearance and parking will be described and justified.
 - 5. Provision shall be made to establish a private organization (i.e. homeowners/ or master association) with direct responsibility to provide for the operation and maintenance of all common facilities and amenities that are part of the planned development, and in such instance the legal assurances demonstrating that the private organization is self-perpetuating.
- H. Preliminary Plat, if appropriate, designed in compliance with the subdivision regulations set forth in Chapters 1105 through 1123 of the City of Pataskala Codified Ordinances. The required subdivision plat information may be included with the Preliminary Development Plan.

(Ord. 2010-3962. Passed 3-8-10.)

1255.18 FINAL DEVELOPMENT PLAN CONTENTS.

The applicant shall submit fifteen (15) copies of the text and map information outlined below. The applicant must be an owner, lessee, representative or agent of the property for which the Planned Development District is proposed. Final Development Plans are intended to be detailed refinements for the development and as such must be accurate, detailed representations of the total aspects of the approved Preliminary Development Plan. Contents of the Final Development Plan application shall include: (inclusion of an electronic file in pdf format of submitted materials is highly encouraged):

- (a) A completed application form together with the established application fee.
- (b) A detailed introductory statement of all uses proposed to be established indicated in the areas to be occupied by each use and the anticipated density of population and building density or square feet/acre;
- (c) A vicinity map showing the relationship of the area of final development to the entire Planned Development District including the relationship of the area of the final development plan to the entire Planned District and including existing structures, property lines, easements, utilities, and street rights of way of the subject property and property within 500 feet of the site.
- (d) A regional context map showing the proposed site and all areas within 2000 feet in all directions showing both the basics of the proposed layout contained in the application and the property liens of the adjacent areas on a drawing that is 11 inches by 17 inches in size.

- (e) The Final Subdivision Plat. If the proposed project includes the subdivision of land, and if a final plat has not already been approved, the final plat shall be submitted in accordance with Chapters 1105 through 1123 of the Pataskala Subdivision Regulations.
- (f) If a final subdivision plat is not required, the applicant shall provide a final legal description of the property, showing the boundaries of the property which is the subject of the Final Development Plan with accurate distances and bearings from an established monument of the project to the three nearest established street lines or official monuments:
- (g) A Final Development Plan map prepared by a licensed professional, and drawn to an appropriate scale indicating the following items, to the extent that the information is not already shown on the final subdivision plat or construction drawings for a subdivision:
 - (1) A bar scale, north point, legal description and total acreage of the area which is the subject of the Final Development Plan:
 - (2) Accurate location of all set monuments, which shall be concrete six inches by six inches by thirty inches with iron pipe cast in center, one such monument to be placed at each corner and at each change of direction of the boundary, at each street intersection and at the beginning and end of curves on one side of the street;
 - (3) The right of way lines of adjoining streets and alleys with their width and names and indicating the edge of pavement and centerlines;
 - (4) All lot lines and easements with their dimensions;
 - (5) Radii, arcs, points of tangency, central angles for all curvilinear streets, and radii for all rounded corners;
 - (6) The dimensions and locations of proposed structures, buildings, streets, parking areas, yards, playgrounds, school site, open spaces, proposed pedestrian and bike path systems, the arrangement of internal and in-out traffic movement including access roads and drives, lane and other pavement markings to direct and control parking and circulation, connections to existing and future adjacent areas and developments, the location of signs related to parking and traffic control, and other public or private facilities;
 - (7) Location of existing and proposed structures including fences, walls, signs, and lighting;
 - (8) Location, screening and layout of all proposed and existing outdoor storage areas including storage of waste materials and trash receptacles;
 - (9) Accurate outlines, dimensions and legal descriptions of any areas to be dedicated or reserved for public use, provided those are acceptable to the City, and with the purposes indicated thereon, and of any area to be reserved by deed covenant for the common use of all property owners, and the acreage of such reserved areas, or indicating if it is to be dedicated or reserved and the proposed timing of dedication or reservation.
 - (10) A summary tabulation showing the total acres of the proposed development, the number of acres devoted to each type of use including streets, and open space, and the number of dwelling units by type, building square footage for non-residential structures, number of parking spaces, pavement coverage, impervious surface area and the exact acreage and area of each lot, reserve or other parcel shown on the plan such areas to be computed inclusive of and after the extension of lot or parcel lines to the center lines of contiguous public ways, such as streets and parking areas, private streets, and other public facilities;

- (11) Detailed engineering plans for the provisions of all site grading, development practices established by City Code, all streets and utilities including provisions for off-site connections and facilities necessary to serve the entire area which is the subject of the Final Development Plan; (This provision shall not apply to the final grading for the individual one or two family building sites within the development area)
- (12) A certificate by a surveyor registered in the State of Ohio that the plan represents a survey made by him and that the monuments shown actually exist and that all dimensional and geodetic details are correct;
- (13) All municipal, corporation, township and county lines and section lines traversing or immediately adjacent to the property which is the subject of the Final Development Plan, and adjacent subdivision boundaries within 200 feet of such property, accurately referenced to the boundaries of the project by bearings and distances;
- (14) Space for signatures of the owner, and applicant if different than the owner, and the Chair of the Planning and Zoning Commission and the date of Commission approval. Space for the signatures of all required municipal officials:
- (15) Topographic maps showing existing and proposed grading at two (2) foot contours, water courses, wetlands, flood plains and other flood hazard information, and proposed drainage facilities to include drainage patterns, proposed storm drain lines, detention/retention basins and structures, and the design storm used as the basis for sizing facilities and flood surcharge conditions that exceed the facilities design capacity shall be indicated and shown on the site grading plan to be approved by the City Engineer;
- (16) Detailed landscaping plans as required in Chapter 1283;
- (17) A tree preservation plan, tree survey and tree replacement plan required by Chapter 1283.
- (18) A lighting plan, including but not limited to light pole heights and locations, building accent lighting, pedestrian lighting, average footcandle calculations minimum footcandles and maximum foot-candles. Lighting shall not directly illuminate or produce glare on neighboring properties. "Dark skies" principles shall be applied.
- Architectural drawings showing all exterior elevations and building floor plans, colors, materials and other details, demonstrating the design and character proposed for the development, of the proposed structures, buildings, uses and facilities and the physical relationship of all elements providing sufficient detail to indicate the architectural style proposed to demonstrate conformity with the appearance standards established in the development text approved as part of the Preliminary Plan, and to enable the Planning and Zoning Commission to make a decision. Drawings shall be prepared by a licensed architect.
- (20) All covenants, easements and other restrictions; including all proposed covenants, grants of easements or restrictions that will be imposed upon the use of the land, buildings, and structures, or reference made thereto and proper acknowledgment of owners and/or holders of mortgages accepting such restrictions:
- (21) Evidence of ownership interests, including liens, easements, the nature of the developer's interest if not the owner, and that the applicant has sufficient control over the land in question to initiate the proposed project;

- A certification to the effect that the owner will dedicate to public use the appropriate uses, streets, parks and other lands intended for public use, provided those areas are acceptable to the City;
- Proposed utilities. Verification of availability of all utilities, including water, sanitary sewer, gas, electric, cable, phone, etc. Approval of detailed water and sewer engineering plans by the appropriate public utility or other appropriate public entity, shall be obtained no later than during the review period;
- (24) Location, material, dimensions, shape, color(s) and type of illumination of all signs;
- (25) For projects that include any area for common use of or to be maintained by multiple property owners, the association's bylaws or code of regulations, which shall include provisions that comply with the following requirements:
 - A. Membership in the association shall be mandatory for all purchasers of lots in the development or units in a condominium;
 - B. The association shall be responsible for maintenance, control, and insurance of common areas:
 - C. The association shall have the power to impose assessments on members for the maintenance, control and insurance of common facilities, and have the power to place liens against individual properties for failure to pay assessments;
 - D. The association shall have the authority to enforce reasonable rules and regulations governing the use of, and payment of assessments for maintenance, control and insurance of, common facilities by such means as reasonable monetary fines, suspension of the right to vote and the right to use any common recreational facilities, the right to suspend any services provided by the association to any owner, and the right to exercise self-help to cure violations.
 - E. The conditions and timing of transfer of control from the developer to the unit or lot owners shall be specified.
 - F. The association shall convey to the City and other appropriate governmental bodies, after proper notice, the right to entrance to any common facilities for emergency purposes or in the event of nonperformance of maintenance or improvements affecting the public health, safety and welfare. The City shall have the right, after proper notice to make improvements and perform maintenance functions. In addition, the City shall have the right to proceed against the association for reimbursements of said costs, including the right to file liens against individual condominium units, houses and building lots.
 - G. The provisions and authority for any required architectural review that may control any aspect of the project beyond the City requirements.
- (26) Modifications from Preliminary Plan. Provide a statement identifying any aspect of the Final Development Plan for which the applicant is requesting a modification from the preliminary development plan, including justification for the change and the impact of such change, per Section 1255.14.

(27) Table of Contents. Provide a Table of Contents or other index indicating where each of the plan submission requirements is located within the application package (e.g. the page number of a narrative or drawing). (Ord. 2010-3962. Passed 3-8-10.)

1255.19 CRITERIA FOR APPROVAL OF A PRELIMINARY.

As the Planning and Zoning Commission reviews proposed planned districts it shall determine whether or not the Preliminary Development Plan complies with the following criteria. In the event the Planning and Zoning Commission determines that the proposed preliminary development plan does not comply with a preponderance of these criteria, the Planning and Zoning Commission shall disapprove the application:

- (a) The proposed development advances the general health, and safety of the City of Pataskala and is consistent with the purpose and intent of the Zoning Code.
- (b) The proposed development is in conformity with the Comprehensive Plan, and other adopted plans or portions thereof as they may apply and will not unreasonably burden the existing street network.
- (c) The proposed development advances the general welfare of the City and immediate vicinity and will not impede the normal and orderly development and improvement of, and is otherwise compatible with, the surrounding areas.
- (d) The proposed uses are appropriately located in the City so that the use and value of property within and adjacent to the area will be safeguarded.
- (e) The proposed developments will have sufficient open space areas that meet the objectives of the Comprehensive Plan.
- (f) That the benefits, improved arrangements, and the design of the proposed development justify the deviation from the standard development requirements included in the City of Pataskala Zoning Code.
- (g) That there are adequate public services (e.g. utilities, fire protection, emergency service, etc.) available to serve the proposed development.
- (h) The applicant's contributions to the public infrastructure are consistent with all adopted plans and are sufficient to service the new development.
- (i) That the proposed development will not create overcrowding and/or traffic hazards on existing roads and/or intersections.
- (j) That the arrangement of land uses on the site properly considered topography, significant natural features, and natural drainage patterns, views, and roadway access
- (k) That the clustering of development sites is shown to preserve any natural or historic features and provides usable common open space.
- (1) The proposed road circulation system is integrated and coordinated to include a hierarchical interconnection of interior roads as well as adequate outer-connection of interior collector streets with off-site road systems, and to maximize public safety and to accommodate adequate pedestrian and bike circulation systems so that the proposed development provides for a safe, convenient and non-conflicting circulation system for motorists, bicyclists and pedestrians.
- (m) That there are adequate buffers between incompatible land uses and the density, building gross floor area, building heights, setbacks, distances between buildings and structures, yard space, design and layout of open space systems and parking areas, traffic accessibility and other elements having a bearing on the overall acceptability of the development plans contribute to the orderly development of land within the City.

- (n) That the relationship of buildings and structures to each other and to such other facilities provides for the coordination and integration of this development within the Planned District and the larger community and maintains the rural-village character of Pataskala.
- (o) The proposed architectural character is compatible with that of surrounding properties and promotes and enhances the community values expressed in the Comprehensive Plan.
- (p) Adequate provision is made for storm drainage within and through the site so as to maintain, as far as practicable, usual and normal swales, watercourses and drainage areas.
- (q) The proposed phasing of development is appropriate for the existing and proposed infrastructure and is sufficiently coordinated among the various phases to yield the intended overall development and to insure that public facilities and amenities are provided as planned.
- (r) That any other items shown in the preliminary development plan or in the accompanying text be addressed to the Planning and Zoning Commission's satisfaction. (Ord. 2010-3962. Passed 3-8-10.)

1255.20 CRITERIA FOR APPROVAL OF THE FINAL PLAN.

- (a) The Planning and Zoning Commission may seek assistance in making its recommendation from any appropriate outside source.
- (b) The Planning and Zoning Commission shall review the proposed Final Development Plan in accordance with the following criteria:
 - (1) The Final Development Plan conforms in all pertinent respects to the approved Preliminary Development Plan, provided that the Planning and Zoning Commission may authorize plans amended as specified in Section 1255.14.
 - (2) That the proposed development advances the general health and safety of the City of Pataskala.
 - (3) That the Planning and Zoning Commission is satisfied that the developer has provided sufficient guarantees or demonstrates possession of the requisite financial resources to complete the project.
 - (4) That the interior road system, proposed parking, and any off-site improvements are suitable, safe, and adequate to carry anticipated vehicular and pedestrian traffic generated by and within the proposed development and to adjacent property.
 - (5) The development has adequate public services and open spaces.
 - The development preserves and is sensitive to the natural characteristics of the site in a manner that complies with any applicable regulations.
 - (7) The development provides adequate lighting for safe and convenient use of the streets, walkways, driveways, and parking areas without unnecessarily spilling or emitting light onto adjacent properties or the general vicinity.
 - (8) Signs, as shown on the submitted sign plan, will be of a coordinated effect throughout the planned district, and with adjacent development; are of appropriate size, scale, design, and relationship with principal buildings the site and surroundings, so as to maintain safe and orderly pedestrian and vehicular circulation.

- (9) The landscape plan adequately enhances the principal buildings and site; maintains existing trees to the extent possible; buffers adjacent incompatible uses; breaks up large expanses of pavement with natural materials; and utilizes appropriate plant selections for the buildings, site and climate.
- (10) That the existing and proposed utilities, including water and sewer service, and drainage will be adequate for the population densities and nonresidential uses proposed in the Planned Development District and complies with applicable regulations established by the City or any other governmental entity which may have jurisdiction over such matters.
- (11) Phases of projects are planned so that these conditions are complied with to meet the needs of that phase upon its completion.
- (12) That any other items shown in the final development plan or in the accompanying text be addressed to the Planning and Zoning Commission's satisfaction. (Ord. 2010-3962. Passed 3-8-10.)

1255.21 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.

In approving any Planned Development District, the City of Pataskala may prescribe appropriate conditions and safeguards in conformity with this Code. Violations of such conditions or safeguards, when made a part of the terms under which the final development plan is approved, shall be deemed a violation of this Code, and punishable under Section 1209.99. (Ord. 2010-3962. Passed 3-8-10.)

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CHAPTER 1257 Flood Damage Prevention and Flood Plain Overlay District (FP)

1257.01	Title, purpose and	1257.05	Use and development
	jurisdiction.		standards for flood
1257.02	Definitions.		hazard reduction.
1257.03	General provisions.	1257.06	Appeals and variances.
	Administration.	1257.07	Enforcement.

CROSS REFERENCES

County flood control aid to governmental units - see Ohio R.C. 307.77
Basis of zoning districts - see Ohio R.C. 713.10
Construction permits and prohibitions for dams, dikes or levees - see
Ohio R.C. 1521.06

Flood hazards; marking flood areas - see Ohio R.C. 1521.14 Review of flood plain ordinances - see Ohio R.C. 1521.18

1257.01 TITLE, PURPOSE AND JURISDICTION.

- (a) <u>Statutory Authorization, Findings of Fact, Purpose and Methods.</u> Article XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the City Council of Pataskala, State of Ohio, does ordain as follows:
- (b) <u>Findings of Fact.</u> The City of Pataskala has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.
- (c) <u>Statement of Purpose.</u> It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

(1) Protect human life and health;

- (2) Minimize expenditure of public money for costly flood control projects;
- Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in areas of special flood hazard;

- (6) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
- (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- (8) Mnimize the impact of development on adjacent properties within and near flood prone areas;
- (9) Ensure that the flood storage and conveyance functions of the floodplain are maintained:
- (10) Minimize the impact of development on the natural, beneficial values of the floodplain;
- (11) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (12) Meet community participation requirements of the National Flood Insurance Program.
- (d) <u>Methods of Reducing Flood Losses.</u> In order to accomplish its purposes, these regulations include methods and provisions for:
 - (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
 - (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
 - (4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and
 - (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

 (Ord. 2004-3552. Passed 5-17-04.)

1257.02 DEFINITIONS.

- (a) Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.
 - (1) "Accessory Structure" means a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
 - "Appeal" means a request for review of the floodplain administrator's interpretation of any provision of these regulations or a request for a variance.
 - "Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or one-hundred (100) year flood.

- (4) "Base (100-Year) Flood Elevation (BFE)" means the water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from 1 to 3 feet).
- (5) "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
- (6) "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

(7) "Enclosure Below the Lowest Floor" See "Lowest Floor."

- "Executive Order 11988 (Floodplain Management)" issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.
- (9) "Federal Emergency Management Agency (FEMA)" means the agency with the overall responsibility for administering the National Flood Insurance Program

(10) "Fill" means a deposit of earth material placed by artificial means.

(11) "Flood or Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

A. The overflow of inland or tidal waters, and/or

- B. The unusual and rapid accumulation or runoff of surface waters from any source.
- "Flood Hazard Boundary Map (FHBM)" means the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.
- "Flood Insurance Rate Map (FIRM)" means an official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard
- "Flood Insurance Risk Zones" means zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:
 - A. Zone A: Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.
 - B. Zones A1-30 and Zone AE: Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.
 - C. Zone AO: Special flood hazard areas inundated by the 100-year flood; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.
 - D. Zone AH: Special flood hazard areas inundated by the 100-year flood; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.

- E. Zone A99: Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.
- F. Zone B and Zone X (shaded): Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than one square mile; and areas protected by levees from the base flood.
- G. Zone C and Zone X (unshaded): Areas determined to be outside the 500-year floodplain.
- "Flood Insurance Study (FIS)" means the official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.
- (16) "Flood Protection Elevation" means the Flood Protection Elevation, or FPE, is the base flood elevation plus zero feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the floodplain administrator.
- "Floodway" means a channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.

The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

- (18) "Freeboard" means a factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.
- (19) "Historic structure" means any structure that is:
 - A. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

- C. Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office.
- D. Individually listed on the inventory of historic places maintained by Pataskala whose historic preservation program has been certified by the Ohio Historic Preservation Office.
- (20) "Hydrologic and hydraulic engineering analysis" means an analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.
- "Letter of Map Change (LOMC)" means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's are broken down into the following categories:
 - A. "Letter of Map Amendment (LOMA)" means a revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.
 - B. "Letter of Map Revision (LOMR)" means a revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area
 - C. "Conditional Letter of Map Revision (CLOMR)" means a formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.
- (22) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.
- "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 3733 of the Ohio Revised Code.

- (24)"Manufactured home park". As specified in the Ohio Administrative Code 3701-27-01, a manufactured home park is any tract of land upon which three or more manufactured homes, used for habitation, are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.
- "National Flood Insurance Program (NFIP)" means a Federal program (25)enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.

"New construction" means structures for which the "start of construction" (26)commenced on or after the initial effective date of the City of Pataskala's Flood Insurance Rate Map, February 2, 1983, and includes any subsequent

improvements to such structures.

- (27)"Person" means any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the Ohio Revised Code Section 111.15 as any governmental entity of the State and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the General Assembly, the Controlling Board, the Adjutant General's Department, or any court.
- (28)"Recreational vehicle" means a vehicle which is:
 - Built on a single chassis,
 - В. 400 square feet or less when measured at the largest horizontal projection,
 - C. Designed to be self- propelled or permanently towable by a light duty truck, and
 - D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (29)"Registered Professional Architect" means a person registered to engage in the practice of architecture under the provisions of sections 4703.01 to 4703.19 of the Ohio Revised Code.
- (30)"Registered Professional Engineer" means a person registered as a professional engineer under Chapter 4733 of the Ohio Revised Code.
- "Registered Professional Surveyor" means a person registered as a (31)professional surveyor under Chapter 4733 of the Ohio Revised Code.

- "Special Flood Hazard Area" means the land in the floodplain subject to a one percent or greater chance of flooding in any given year, also known as "Areas of Special Flood Hazard". Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal, state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.
- (33)"Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

(34) "Structure" means a walled and roofed building, manufactured home, or gas

or liquid storage tank that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

- "Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:
 - A. Any improvement to a structure which is considered "new construction";
 - B. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

- C. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".
- (37) "Variance" means a grant of relief from the standards of these regulations consistent with the variance conditions herein.
- (38) "Violation" means the failure of a structure or other development to be fully compliant with these regulations.
 (Ord. 2007-3761. Passed 3-19-07.)

1257.03 GENERAL PROVISIONS.

- (a) <u>Lands to Which These Regulations Apply.</u> This Chapter shall apply to all areas of special flood hazard within the jurisdiction of the City of Pataskala as identified in subsection (b) hereof, including any additional areas of special flood hazard annexed by the City of Pataskala.
- (b) <u>Basis for Establishing the Areas of Special Flood Hazard.</u> For the purposes of these regulations, the following studies and/or maps are adopted:
 - (1) Flood Insurance Study for Licking County and Incorporated Areas effective May 2, 2007 and Flood Insurance Rate Map for Licking County and Incorporated Areas effective May 2, 2007.
 - Other studies and/or maps which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard.
 - (3) Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the City of Pataskala as required in Section 1257.05(c), Subdivisions and Large Developments.
 - (4) Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the City of Pataskala Planning and Zoning Office, 621 West Broad Street, Pataskala, Ohio 43062.
- (c) <u>Abrogation and Greater Restrictions</u>. These regulations are not intended to repeal any existing ordinances or resolutions, including Subdivision Regulations, Zoning or Building Codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations shall not intend to impair any deed restriction covenant or easement, but the land subject to such interests shall also be governed by the regulations.
- (d) <u>Interpretation</u>. In the interpretation and application of these regulations, all provisions shall be:
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the governing body; and
 - Deemed neither to limit nor repeal any other powers granted under state statutes. Where a provision of these regulations may be in conflict with a state or Federal law, such state or Federal law shall take precedence over these regulations.

- (e) <u>Warning and Disclaimer of Liability</u>. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City of Pataskala, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.
- (f) <u>Severability.</u> Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. 2007-3761. Passed 3-19-07.)

1257.04 ADMINISTRATION.

- (a) <u>Designation of the Floodplain Administrator</u>. The Planning Director is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.
- (b) <u>Duties and Responsibilities of the Floodplain Administrator.</u> The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:
 - (1) Evaluate applications for permits to develop in special flood hazard areas.
 - (2) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
 - (3) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance.
 - (4) Inspect buildings and lands to determine whether any violations of these regulations have been committed.
 - (5) Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances, and records of enforcement actions taken for violations of these regulations.
 - (6) Enforce the provisions of these regulations.
 - (7) Provide information, testimony, or other evidence as needed during variance hearings.
 - (8) Coordinate map maintenance activities and FEMA follow-up.
 - (9) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

- (c) <u>Floodplain Development Permits.</u> It shall be unlawful for any person to begin construction or other development activity, including but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 1257.03(b), until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.
- (d) Application Required. An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:
 - Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
 - (2) Elevation of the existing, natural ground where structures are proposed.
 - Elevation of the lowest floor, including basement, of all proposed structures.
 - (4) Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.
 - (5) Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:
 - A. Floodproofing certification for non-residential floodproofed structure as required in Section 1257.05(e).
 - B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1257.05(d)(5) are designed to automatically equalize hydrostatic flood forces.
 - C. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 1257.05(i)(3).
 - D. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section 1257.05(i)(2).

- E. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section 1257.05(i)(1).
- F. Generation of base flood elevation(s) for subdivision and large developments as required by Section 1257.05(c).
- (6) A floodplain development permit application fee set by the schedule of fees adopted by the City of Pataskala.
- (e) Review and Approval of a Floodplain Development Permit Application.
 - (1) Review.
 - A. After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in subsection (d) hereof has been received by the Floodplain Administrator.
 - B. The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.
 - (2) Approval. Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within one (1) year. A floodplain development permit shall expire one (1) year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.
- (f) <u>Inspections.</u> The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.
- (g) <u>Post-Construction Certifications Required.</u> The following as-built certifications are required after a floodplain development permit has been issued:
 - (1) For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.

- (2) For all development activities subject to the standards of subsection (j)(1) hereof, a Letter of Map Revision.
- (h) Revoking a Floodplain Development Permit. A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Board of Zoning Appeals Variance in accordance with Section 1257.06.
- (i) <u>Exemption from Filing a Development Permit.</u> An application for a floodplain development permit shall not be required for:
 - (1) Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$5,000.
 - (2) Development activities in an existing or proposed manufactured home park. Such activities are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code Chapter 3701.
 - (3) Major utility facilities permitted by the Ohio Power Siting Board under Chapter 4906 of the Ohio Revised Code.
 - (4) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Chapter 3734 of the Ohio Revised Code.
 - (5) Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 Floodplain Management. Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these regulations.
- (j) <u>Map Maintenance Activities.</u> To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City of Pataskala flood maps, studies and other data identified in Section 1257.03(b) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:
 - (1) Requirement to Submit New Technical Data.
 - A. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
 - 1. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - 2. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard areas;
 - 3. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and

- 4. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Section 1257.05(c).
- B. It is the responsibility of the applicant to have technical data, required in accordance with subsection (j)(1) hereof, prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- C. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 - 1. Proposed floodway encroachments that increase the base flood elevation; and
 - 2. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
- D. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to subsection (j)(1)A. hereof.
- (2) Right to Submit New Technical Data. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the City Administrator of the City of Pataskala, and may be submitted at any time.
- Annexation/Detachment. Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Pataskala have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Pataskala's Flood Insurance Rate Map accurately represents the City of Pataskala boundaries, include within such notification a copy of a map of the City of Pataskala suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Pataskala has assumed or relinquished floodplain management regulatory authority.
- (k) <u>Data Use and Flood Map Interpretation.</u> The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:
 - (1) In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.

- (2) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown in FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.
- When Preliminary Flood Insurance Rate Maps and/or Flood Insurance Study have been provided by FEMA:
 - A. Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations.
 - B. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceeds the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.
- (4) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1257.06, Appeals and Variances.
- (5) Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, etc.) shall prevail.
- (1) <u>Substantial Damage Determinations.</u> Damages to structures may result from a variety of causes including tornado, wind, heavy snow, flood, fire, etc. After such a damage event, the Floodplain Administrator shall:
 - (1) Determine whether damaged structures are located in special flood hazard areas;
 - (2) Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
 - (3) Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.

(Ord. 2007-3761. Passed 3-19-07.)

1257.05 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1257.03(b) or 1257.04(k)(1):

(a) <u>Use Regulations.</u>

(1) <u>Permitted uses.</u> All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the City of Pataskala are allowed provided they meet the provisions of these regulations.

(2) Prohibited uses.

- A. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Chapter 3701 of the Ohio Revised Code.
- B. Infectious waste treatment facilities in all special flood hazard areas, permitted under Chapter 3734 of the Ohio Revised Code.
- (b) <u>Water and Wastewater Systems.</u> The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:
 - (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
 - (2) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
 - On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

(c) Subdivisions and Large Developments.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- (4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.
- (5) The applicant shall meet the requirement to submit technical data to FEMA in Section 1257.04(j)(1)A.4. when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by subsection (c)(4) hereof.

- A. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
- B. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:

1. Meet the requirements to submit technical data in Section 1257.04(j)(1);

- 2. An evaluation of alternatives which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
- 3. Certification that no structures are located in areas which would be impacted by the increased base flood elevation;
- 4. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
- 5. Concurrence of the City Administrator of the City of Pataskala and the Chief Executive Officer of any other communities impacted by the proposed actions.
- (2) Development in riverine areas with base flood elevations but no floodways.
 - A. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than 1.0 (one) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or
 - B. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than 1.0 (one) foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - 1. An evaluation of alternatives which would result in an increase of 1.0 (one) foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
 - 2. Section 1257.05(i)(1)B., items 1. and 3. to 5.

- Alterations of a watercourse. For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:
 - A. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.
 - B. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
 - C. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with the City of Pataskala specifying the maintenance responsibilities If an agreement is required, it shall be made a condition of the floodplain development permit.
 - D. The applicant shall meet the requirements to submit technical data in Section 1257.04(j)(1)A.3. when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

 (Ord. 2007-3761. Passed 3-19-07.)

1257.06 APPEALS AND VARIANCES.

- (a) Appeals and Variance Board.
 - (1) The Board of Zoning Appeals as established by the City of Pataskala shall hear and decide appeals and requests for variances from the requirements of this chapter.
 - (2) The Board of Zoning Appeals shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.
 - (3) Those aggrieved by the decision of the Board of Zoning Appeals or any taxpayer, may appeal such decision to the Licking County Court of Common Pleas, as provided in Ohio R.C. Chapter 2506.
 - (4) Authorize variances in accordance with this section.

- (b) <u>Variances.</u> Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Board of Zoning Appeals shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.
- (c) <u>Public Variance Hearing.</u> At such hearing the applicant shall present such statements and evidence as the Board of Zoning Appeals requires. In considering such variance applications, the Board of Zoning Appeals shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:
 - (1) The danger that materials may be swept onto other lands to the injury of others.
 - (2) The danger to life and property due to flooding or erosion damage.
 - The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (4) The importance of the services provided by the proposed facility to the community.
 - (5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (6) The necessity to the facility of a waterfront location, where applicable.
 - (7) The compatibility of the proposed use with existing and anticipated development.
 - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
 - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
 - (d) Variances shall only be issued upon:
 - (1) A showing of good and sufficient cause.
 - (2) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
 - (3) A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
 - (4) A determination that the structure or other development is protected by methods to minimize flood damages.
 - (5) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the above factors and the purposes of these regulations, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of these regulations.

(e) <u>Conditions for Variances.</u>

- (1) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (2) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in subsection (c)(1) to (11) hereof have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- (3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permined to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(f) Procedure at Hearings.

(1) All testimony shall be given under oath.

A complete record of the proceedings shall be kept, except confidential deliberations of the Board, but including all documents presented and a verbatim record of the testimony of all witnesses.

(3) The applicant shall proceed first to present evidence and testimony in

support of the appeal or variance.

(4) The Administrator may present evidence or testimony in opposition to the appeal or variance.

(5) All witnesses shall be subject to cross-examination by the adverse party or

their counsel.

(6) Evidence that is not admitted may be proffered and shall become part of

the record for appeal.

(7) The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.

(8) The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.

(Ord. 2007-3761. Passed 3-19-07.)

1257.07 ENFORCEMENT.

(a) Compliance Required.

- (1) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 1257.04(i)
- (2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with subsection (c) hereof.

- (3) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with subsection (c) hereof.
- (b) <u>Notice of Violation.</u> Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, he shall give notice of such violation to the person responsible therefor and order compliance with these regulations as hereinafter provided. Such notice and order shall:

(1) Be put in writing on an appropriate form;

Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action which, if taken, will effect compliance with the provisions of these regulations;

(3) Specify a reasonable time for performance;

(4) Advise the owner, operator, or occupant of the right to appeal;

- (5) Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.
- (c) <u>Violations and Penalties</u>. Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a fourth degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of Pataskala. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Pataskala from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Pataskala shall prosecute any violation of these regulations in accordance with the penalties stated herein. (Ord. 2007-3761. Passed 3-19-07.)

CHAPTER 1259 Transportation Corridor Overlay District (TC)

1259.01	Purpose.	1259.05	Design standards.
1259.02	Short name.	1259.06	Site design submittal
1259.03	Jurisdictional boundaries.		requirements.
1259.04	Permitted uses.	1259.07	Site design approval.

1259.01 PURPOSE.

The purpose of the Transportation Corridor Overlay District is to provide overlay requirements to ensure that existing and anticipated corridor land uses and traffic improvements, within the district, will be developed in a manner that protects the health and safety of residents of City of Pataskala. The importance of maintaining traffic flow and accessibility so as to reduce potential traffic hazards, to encourage compatible land uses, to comply with the Clean Air Act and subsequent amendments, and to protect property values, requires that special emphasis on traffic planning, access management, and additional frontage specification be achieved through the use of an overlay district. The TC Overlay District shall also require uniform signage, adequate screening, and landscaping in an effort to establish visual harmony and to promote aesthetic design in development within the district. (Ord. 2015-4242. Passed 1-19-16.)

1259.02 SHORT NAME.

The short name and map symbol of the Transportation Corridor Overlay District is TC. (Ord. 2015-4242. Passed 1-19-16.)

1259.03 JURISDICTIONAL BOUNDARIES.

- A. The Transportation Corridor Overlay District is defined as all land with right-of-way frontage on any of the following corridor roadways, or any parcels within a 1/4 mile of any of these corridor roadways:
 - 1. Broad Street (S.R. 16) within the corporate limits of the City.
 - 2. Hazelton-Etna Road (SR 310) south of Mill Street to the City corporate line.
 - 3. North Township Road/Hazelton-Etna Road (SR 310) north of Broad Street to the City corporate line.
 - 4. Taylor Road from a point 200 feet south of Kennedy Road south to the City corporate line.
 - 5. Mink Street from the railroad track south to the City corporate line.
 - 5. Summit Road from the railroad track south to the City corporate line.

Planned Development Districts may be exempt from some of the requirements of this section at the discretion of the Planning and Zoning Commission. (Ord. 2015-4242. Passed 1-19-16.)

1259.04 PERMITTED USES.

All permitted uses within the underlying zoning district shall be allowed within the TC. Should there be a conflict between the TC and the underlying zoning district, the more restrictive requirements or the higher standards shall apply. (Ord. 2015-4242. Passed 1-19-16.)

1259.05 DESIGN STANDARDS.

A. Traffic Safety Measures. One or more of the following traffic safety measures shall be required in an effort to aid access and traffic management:

1. Access Road Requirements. Access roads shall be utilized to service commercial development located along the corridor. Such roads will help

prevent traffic interruptions on the thoroughfare.

2. Left Turn Lanes. Left turn lanes, which provide stacking lanes for those cars preparing to turn left, shall be utilized in an effort to help prevent traffic slow down and traffic hazards.

3. Acceleration/Deceleration Lanes. Acceleration/deceleration lanes shall be utilized to help prevent traffic slow-down and general interruptions, thereby

avoiding potential traffic hazards.

- 4. Driveway Spacing. Access points shall be separated by a minimum distance of 600 feet (from edge to edge of driveway cuts) along Broad Street (SR 16) and shall be adjusted accordingly for other roads included in the TC based on their given speed limits (National Cooperative Highway Research Program, Access Management Guidelines for Activity Center, Washington, D.C., 1992).
- 5. Right-in / Right-out only turns. Points of access that allow only right in/right-out access shall be utilized in an effort to help prevent traffic slowdown and additional points of traffic conflicts.
- 6. Or other traffic safety measures as approved by the City engineers.
- B. Setback Requirements. The front yard setback shall be based on the recommended right-of-way width as outlined in the Master Thoroughfare Plan. All yard setbacks shall be approved, approved with modifications or disapproved by the Planning and Zoning Commission with consideration given to recommendations from City staff.
- C. Loading Areas. Commercial loading areas shall be located behind building(s) and screened from adjacent unlike uses.
- D. Storage Areas. Storage areas and trash storage receptacles shall be totally enclosed by structures or opaque fences on four sides, screened from adjacent uses, and be located behind building(s).
- E. Utility and Transmission Lines: New or upgraded utility, cable or other communications lines, and transmission lines located within the TC Overlay District (including those located along the rear property line) shall be located underground and be designed and located in such a manner that they will have minimum adverse visual and physical impact on the roadside.
- F. Pedestrian/Handicap Access. Sidewalks shall be provided along each developed parcel or upon change in use of an existing developed parcel within the TC Overlay District if a sidewalk does not exist at the time of the development or change in use of the parcel. Sidewalks shall be designed to minimize conflict with motor vehicles and shall be installed pursuant to sidewalk design specifications in Section 1117.15 of the Pataskala Subdivision Regulations.

- G. Corridor Landscaping/Buffers/Screening.
 - 1. All existing, healthy trees having a trunk diameter of 6 inches or more measured 5 feet above the ground shall be preserved whenever possible. The developer shall be required to submit a tree survey which indicates the location of such trees so that site design options that would allow for the maximum preservation of mature tree stands may be negotiated. (See Chapter 1283, Trees and Landscaping for tree protection requirements.)
 - 2. Buffer zones shall be approved, approved with modifications or disapproved by the Planning and Zoning Commission with consideration given to recommendations from City staff.
 - Parking requirements shall be approved, approved with modifications or disapproved by the Planning and Zoning Commission with consideration given to recommendations from City staff.
 - 4. Landscaping/ Design Requirements.
 - a. Distance between parking area and building: A minimum distance of 8 feet shall be maintained between any building, including any walkway immediately adjacent thereto, and the parking area. This space is to be reserved for plant material, either existing or planned, in accordance with the requirements of Chapter 1283.
 - b. Interior plantings. In addition to all other requirements, all commercial, business, institutional, or industrial parking areas for more than 20 vehicles (excluding parking structures), shall provide and maintain a minimum of a 300 square foot planting area with minimum dimensions of 7 feet wide for every 8 parking spaces (including handicapped spaces) located within the parking area. Planting areas shall:

- (1) Contain at least 2 "shade trees" which are at least 8 feet in height and 6 inches and 1/4 inches in circumference (2 inches in diameter) measured at 1/2 feet above grade for new planted trees and measured at 4 1/2 feet above grade for existing trees. ("Shade trees" as used herein means any tree, evergreen, or deciduous, whose mature height of its species can be expected to exceed 35 feet and which has an expected crown spread of 30 feet or more or is considered a shade tree in accordance with the American Association of Nurserymen.)
- (2) Contain ground covering sufficient to cover otherwise exposed planting surface so that soil erosion will be minimized.
- (3) Be located within the parking area as tree islands, at the end of parking bays, inside 7 foot wide or greater medians, or between rows of cars or as part of a continuous street or a transitional protective yard. No vehicular parking space shall be separated from a shade tree by an intervening building and be located farther than 50 feet from the tree trunk of a planting area. Landscaped planting areas shall be distributed in a uniform manner as to provide shade yet should also be positioned within the parking area in accordance with sound landscape design and parking lot circulation principles.
- c. Berms. In addition, earthen berms may be provided or the ground sloped. Any berms used to comply with this requirement shall have a minimum height of 1 1/2 feet and a minimum crown width of 2 feet and a total minimum width of 7 feet and shall be planted with a locally adapted species of shrubs which conform to the spirit of subsection G.5. hereof. However, shrubs may have a lesser height provided that the combined height of the berm and the plantings after 3 years is at least 30 inches high.
- 5. Screening. Any area used for service yards, utility meters, above ground tanks, and other such equipment shall be screened through landscaping (including a berm or opaque fence) so that such facilities are not visible from the highway/road or neighboring properties and shall be located not less than 10 feet from the side and/or rear property lines. (Ord. 2015-4242. Passed 1-19-16.)

1259.06 SITE DESIGN SUBMITTAL REQUIREMENTS.

Before a zoning permit for development or redevelopment of 50 percent or more of the site is issued in the TC District by the Pataskala Zoning Inspector, the developer shall submit plans, drawn at an appropriate scale to the Planning and Zoning Commission (PZC) for recommendations and approval. The Commission may, at its discretion, request additional studies or outside assistance from others, at the developer's expense, in its effort to review the development plan in an appropriate manner.

The following plans shall be submitted by the developer to the Pataskala Planning and

Zoning Commission for review:

1. Site Plan: The plot plan shall show the following:

- a. The boundaries and dimensions of the lot.
- b. The size and location of existing and proposed structures.
- c. The proposed use of all parts of the lot and structures.
- d. All reserve parcels and anticipated development phases.
- e. The use of land and location of structures on adjacent property, within 100 feet of the property line for which the zoning permit is being applied for.

f. Existing trees that are 6 inches or greater in diameter measured 5

feet above the ground located within the setback.

2. Development Plan: The Development Plan shall show the following:

Structures: All proposed structures shall be located, showing square footage for each structure, expected entrance(s), service, and

pedestrian areas for each phase of the development.

- b. Traffic concept: All points of ingress and egress onto public roadways and the overall traffic distribution scheme shall be shown, indicating traffic flow patterns and traffic control points. The requirements for a traffic study and the need for "Traffic Safety Measures" shall be at the discretion of the City Engineer and approved, approved with modifications or disapproved by the Planning and Zoning Commission.
- c. Parking layout: A parking layout must be shown to include the following:
 - (1) Access points and expected movement for all transportation modes through and between separate parking lot areas;

(2) Expected pedestrian access routes from parking areas and

bus stops to structures.

d. Landscaping: All proposed site landscaping, screening, and buffering shall be indicated as to type and size of material to be used, proposed locations, berming and other features in accordance with Section 1259.05G.

e. Proposed location, dimensions, and design of signs. (Ord. 2015-4242. Passed 1-19-16.)

1259.07 SITE DESIGN APPROVAL.

- A. Zoning applications within the TC Overlay District for development or redevelopment of 50 percent or more of the site shall be approved, approved with modifications, or denied within ninety (90) days from the date on which a complete final application has been submitted. The Planning and Zoning Commission may prescribe appropriate conditions and safeguards in conformity with this Code. Zoning applications within the TC Overlay District will be processed in the following manner:
 - 1. If the Zoning Inspector determines that the application is complete, the Zoning Inspector shall schedule within 30 days of receipt of the complete application a meeting of the Planning and Zoning Commission (PZC). This meeting shall be open to the public, and notice of such meetings shall be provided to the applicant and/or his representative, news media, and any other interested parties as defined by Section 1211.11. The Planning and Zoning Commission shall review the TC Overlay District applications and decide whether to approve or deny the application. The PZC shall recommend approval if the requirements of this Code have been met.
 - Site Design Submittal:
 a. When a site design is submitted for any projects, the Planning and Zoning Commission shall review these as final applications.
 - 3. The Zoning Inspector shall review all zoning permit applications to ensure all requirements of Section 1209.04 and this chapter have been submitted. (Ord. 2015-4242. Passed 1-19-16.)

CHAPTER 1261 Plan Districts in General

1261.01	Purpose.	1261.05	Adoption criteria.
1261.02	Establishment and removal of	1261.06	Adoption process.
	Plan Districts.	1261.07	Review.
1261.03	Scope of Plan Districts.	1261.08	Plan District Maps.
1261.04	Relationship to other		•
	regulations.		

CROSS REFERENCES Olde Town Pataskala District - see P. & Z. Ch. 1263

1261.01 PURPOSE.

Plan districts address concerns unique to an area when other zoning mechanisms cannot achieve the desired results. An area may be unique based on natural, economic or historic attributes; be subject to problems from rapid or severe transitions of land use; or contain public facilities which require specific land use regulations for their efficient operation. Plan districts provide a means to modify zoning regulations for specific areas defined in special plans or studies. Each plan district has its own nontransferable set of regulations. This contrasts with base zone and overlay zone provisions which are intended to be applicable in large areas or in more than one area. However, plan districts are not intended for areas smaller than two (2) acres.

1261.02 ESTABLISHMENT AND REMOVAL OF PLAN DISTRICTS.

A plan district may be established or removed as the result of an area planning study, presented for consideration of Council based upon a recommendation of the Commission.

1261.03 SCOPE OF PLAN DISTRICTS.

Plan district regulations are applied in conjunction with a base zone. The plan district provisions may modify any portion of the regulations of the base zone, overlay zone, or other regulations of this Code. The plan district provisions may apply additional requirements or allow exceptions to general regulations based upon the results of the area planning study.

1261.04 RELATIONSHIP TO OTHER REGULATIONS.

When there is a conflict between the plan district regulations and base zone, overlay zone, or other regulations of this Code, the plan district regulations control. The specific regulations of the base zone, overlay zones, or other regulations of this Code apply unless the plan district provides other regulations for the same specific topic.

1261.05 ADOPTION CRITERIA.

A plan district may be established if all the following adoption criteria are met:

- A. The area proposed for the plan district is two (2) acres or larger in size, and has special characteristics or problems of a natural, economic, historic, public facility, or transitional land use or development nature which are not common to other areas of the City;
- B. Existing base and overlay zone provisions are inadequate to achieve a desired public benefit or to address an identified problem in the area;
- C. The proposed plan district and regulations are the result of a legislative study or plan documenting the special characteristics or problems of the area and how a plan district will best address relevant issues; and
- D. The regulations of the plan district are in conformance with the Comprehensive Plan and continue to meet the general purpose and intent of the base zone and any overlay zones applied in the district, and do not prohibit uses or development allowed by the base zone without clear justification.

1261.06 ADOPTION PROCESS.

A plan district shall be adopted pursuant to the process defined in Chapter 1217.

1261.07 REVIEW.

Plan districts and their regulations will be reviewed by the Planning and Zoning Commission not less frequently than every five years to determine whether they are still needed, should be continued, or should be amended. Plan districts and their regulations will also be reviewed as part of the process for the update of the Comprehensive Plan.

1261.08 PLAN DISTRICT MAPS.

The boundaries of each plan district established will be shown as an overlay to the official Zoning Maps. The boundaries shall be identified in the area planning study by a registered survey of the district.

CHAPTER 1263 Olde Town Pataskala District

1263.01 Purpose.

1263.03 Demolitions.

1263.02 Where the regulations apply.

CROSS REFERENCES Plan districts - see P. & Z. Ch. 1261

1263.01 PURPOSE.

The Olde Towne Pataskala Plan District is intended to identify and create an old town district within the City of Pataskala; to retain the historical and architectural heritage of the area; improve the physical appearance of streets, public right-of-way areas and buildings; and provide guidelines for the consistent development for all new and existing uses.

1263.02 WHERE THE REGULATIONS APPLY.

The regulations of this chapter apply to the Olde Towne Pataskala Plan District. The boundaries of the plan district are shown on the Official Zoning Maps. The plan district standards for floor area ratio, height, required residential development, amount of parking, and Olde Towne Pataskala master plans control when in conflict with any base or overlay zone. For other regulations, in cases of conflict the most restrictive regulation controls. The information depicted on the Official Zoning Map is part of the plan district regulations and is subject to the same amendment procedures as amendments to the text of this chapter.

1263.03 DEMOLITIONS.

Landscaping. Site must be landscaped no later than 6 months after the finish grade is restored following demolition, unless there is an Approved Development for the site. Approved Development means issuance of a building permit. The landscaping required to comply with this Section must meet, at least, the L1 standard of Chapter 1283, Landscaping and Screening, except that no shrubs or trees are required. For additional requirements, refer to Section 1221.06 of the Pataskala Code. (Ord. 2017-4288. Passed 7-24-17.)



CHAPTER 1265 Uses Defined by The North American Industrial Classification System (NAICS)

1265.01 Purpose.

1265.02 NAICS Classifications and Zoning District Matrix.

CROSS REFERENCES

General prohibitions - see GEN. OFF. Ch. 521

Definitions - see P. & Z. 1203.03

Permitted and Conditional Uses - see P. & Z. Ch. 1225.03, 1225.04, 1227.03, 1227.04,

1229.03, 1229.04, 1231.03, 1231.04, 1233.03, 1233.04, 1235.03, 1235.04,

1237.03, 1237.04, 1239.03, 1239.04, 1241.03, 1243.03, 1243.04, 1245.03,

1245.04, 1247.03, 1247.04, 1249.03, 1249.04, 1251.03, 1251.04, 1253.03,

1253.04

1265.01 PURPOSE.

- (a) In order to simplify listing all permitted and conditionally permitted uses in agriculture, business, manufacturing, and residential districts of this Zoning Ordinance, the U.S. North American Industry Classification System (NAICS), published in 2007 and in effect as of May 2, 2007, is adopted for use by the City of Pataskala in January of 2008.
- (b) Used as the industry classification system by the statistical agencies of the United States, NAICS is a unique, all-new hierarchical system for classifying business establishments. It is the first economic classification system to be constructed based on a single economic concept. Economic units that use like processes to produce goods or services are grouped together.
- (c) As used in this chapter, permitted and conditionally permitted uses are categorized using the NAICS 2-digit Sector headings (20 Sectors) and 3-digit Subsector headings (100 Subsectors). Use of the 4-digit Industry Group headings (317), 5-digit NAICS Industry headings (725), and 6-digit National headings (1179) will occur whenever specific business establishments need to be clarified.
- (d) By its nature, the NAICS hierarchical structure is 'inclusive'; i.e., all business establishments contained under a particular 3-digit Subsector heading are permissible unless specifically excluded. Additional restrictions (size, noise, fumes, lighting, etc.) listed elsewhere, may prohibit other business establishments.

(e) A copy of the 2007 NAICS Manual will be kept in the office of the Planning Director. Additional information on the NAICS can be found on the World Wide Web at http://www.census.gov/epcd/www/naics.html. (Ord. 2008-3842. Passed 7-21-08.)

1265.02 NAICS CLASSIFICATIONS AND ZONING DISTRICT MATRIX.

- (a) The NAICS Classifications and Zoning District Matrix is a table of NAICS classifications, showing permitted and conditional uses in each of the established zoning districts.
- (b) In the event of conflict between the Zoning Code of the City of Pataskala as existing immediately prior to adoption of this chapter, and the Pataskala NAICS Classification and Zoning District Matrix, then the more restrictive requirements or the higher standards shall apply. (Ord. 2008-3842. Passed 7-21-08.)

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 Telecommunication 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.

CHAPTER 1267 Home Occupations

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

- 3. Customers. Only twelve (12) customers or clients may visit the site in a day.
- 4. Retail sales. Retail sales of goods must be entirely accessory to any services provided on the site (such as hair care products sold as an accessory to hair cutting).

5. Number of Type B home occupations. More than one Type B home occupation per dwelling unit is prohibited.

6. Floor area. Total area devoted to a Type B home occupation may not exceed 15 percent (15%) of the square footage of the primary dwelling unit. A Type B home occupation located in an accessory building space shall be subject to the Conditional Use regulations as defined in Chapter 1215.

1267.04 SITE-RELATED STANDARDS.

A. Signs. External indication of such home occupation shall be limited to one nonilluminated sign, not more than two (2) square feet in area if located less than 15 feet from the public right of way, or not more than six (6) square feet in area if located 15 feet or more from the public right of way. Such signs shall be limited to name, street address, and/or vocation.

B. Outdoor activities.

- 1. All activities associated with Type B home occupations must be in completely enclosed structures except for dedicated exercise or play areas related to day care.
- 2. Exterior storage or display of goods or equipment is prohibited.
- C. Appearance of structure and site. The dwelling and site must remain residential in appearance and characteristics. Internal or external changes which will make the dwelling appear less residential in nature or function are prohibited. Examples of such prohibited alterations include construction of parking lots, paving of required setbacks, or adding commercial-like exterior lighting.

1267.05 IMPACT-RELATED STANDARDS.

- A. Nuisances. Accessory home occupations are regulated by the standards contained in Chapter 1287, Off-Site Impacts, except noise, which is regulated by subsection C. below.
- B. Hazardous substances. Hazardous substances are prohibited, except at the consumer commodity level. (See Chapter 1251, Light Manufacturing District, and Chapter 1253, Planned Manufacturing District, for more information on hazardous substances levels.)
- C. Noise. The maximum noise level for a home occupation is 50 dBA. Noise level measurements are taken at the property line. Home occupations that propose to use power tools must document in advance that the home occupation will meet the 50 dBA standard.
- D. Trucks and vehicles. No more than one truck, associated with the home occupation, may be parked at the site. The maximum size of truck that is allowed on-site is a light truck. This is the same as for all residential uses in residential zones (see Section 1291.10).
- E. Deliveries. Truck deliveries or pick-ups of supplies or products, associated with business activities, are allowed at the home only between 8:00 a.m. and 5:00 p.m. Vehicles used for delivery and pick-up are limited to those normally servicing residential neighborhoods.

1267.06 TYPE A AND B HOME OCCUPATION PERMIT.

- A. Type A home occupations, as defined by Section 1267.02 and as determined by the Zoning Inspector, shall not require a permit.
- B. Purpose. Permits for Type B home occupations must be obtained from the Zoning Inspector prior to their establishment, to ensure the following:
 - 1. That the applicant is aware of the provisions of this chapter which govern accessory home occupations;
 - 2. That the City has all information necessary to evaluate whether the proposal initially meets and continues to meet Code regulations; and
 - 3. That the distribution and location of Type B home occupations can be documented.
- C. Procedure. A home occupation permit for Type B home occupations will be issued by the Zoning Inspector for a four year period. It is the responsibility of the applicant to obtain the permit every four years. The applicant must complete a Type B Home Occupation permit application and demonstrate compliance with the neighborhood notice requirement, described in subsection D. below. Any change in ownership or type of business shall result in the need for a new permit.
 - D. Neighborhood notice.
 - Purpose. The purpose of this requirement is to notify the neighborhood association and/or nearby property owners of the establishment of a Type B accessory home occupation, the type of activities which will occur, and the regulations under which the use must operate.
 - 2. Process.
 - a. Notice content. The applicant must complete a notice which describes the standards set forth in this chapter, the type of business activities to take place at the site, the hours of operation, and either the nonresident employee or the expected number of customers on a daily basis.
 - b. Notice recipients. All neighborhood or homeowners organizations whose boundaries include the site must receive the notice. In addition, all owners of property within 500 feet from any point on the perimeter of the site must receive the notice. The applicant must submit to the Zoning Inspector a list of the addresses notified, a copy of the notice which was sent, and a notarized signed statement verifying that this requirement has been met. It is the responsibility of the applicant to gather the information to fulfill this requirement.
- E. Revocation. A Type B home occupation permit may be revoked by the Zoning Inspector for failure to comply with the regulations of this chapter. (Ord. 2005-3600. Passed 3-21-05.)

CHAPTER 1269 Rental Units

1269.01 Purpose. 1269.02 Description. 1269.03 Standards.

CROSS REFERENCES Home occupations - see P. & Z. Ch. 1267

1269.01 PURPOSE.

This chapter provides standards for the establishment of accessory rental units in existing houses. Accessory rental units are allowed in certain situations to:

- Allow more energy efficient use of large, older homes;
- Provide more affordable housing;
- Provide additional density with minimal cost and disruption to existing neighborhoods;
- Allow individuals and smaller households to retain large houses as residences; and
- Maintain the single-dwelling character of the house.

1269.02 DESCRIPTION.

An accessory rental unit is an additional and auxiliary living unit in an existing house. A house with an accessory rental can be distinguished from a duplex because its intensity of use is less and it retains the appearance as a single-dwelling structure.

1269.03 STANDARDS.

- A. Size of structure. A house with an accessory rental unit must have at least 1,400 square feet of floor area exclusively for the primary unit. The floor area of the garage or other non-living space, such as an unfinished basement, may not be included in the total floor.
- B. Creation of an accessory rental unit. The accessory rental unit may be created only through an internal conversion of the existing living area, basement or attic. An accessory rental unit may not be created through the conversion of an existing garage. Additional off-street parking is not required. The house must be at least 5 years old before conversion.
- C. Location of entrances. Only one entrance to the house may be located on the front of the house, unless the house contained additional front doors before the conversion.

- D. Number of residents. The total number of individuals that reside in both units may not exceed the number that is allowed for a household, as stated in Chapter 1203, Definitions.
- E. Owner occupancy. The house must be owner-occupied when converted and continue to be owner-occupied as long as the Accessory Rental Use is rented pursuant to the requirements of this chapter.
- F. Other uses. An accessory rental unit is prohibited in a house with a Type B home occupation as defined in Section 1267.02B.

CHAPTER 1271 Adult Entertainment Facilities

 Definitions Exceptions.	1271.05	Unlawful exhibition or display of harmful material to
 Location. Conditions.	1271.99	juveniles. Penalty.

CROSS REFERENCES Obscenity and sex offenses - see GEN. OFF. Ch. 533

1271.01 DEFINITIONS.

A. Adult Entertainment Facility: Any establishment which is involved in one or more of the following listed categories:

- 1. Adult Book or Video-Book Store An establishment having greater than 25 percent (25%) of its display area or items for sale of its stock in trade, books, videos, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to "specified sexual activities" or "specified anatomical areas" as herein defined.
- 2. Adult Mini-Motion Picture Theater A facility with a capacity for less than 50 persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," for observation by patrons therein.
- 3. Adult Motion Picture Theater A facility with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," for observation by patrons therein.
- 4. Adult Entertainment Business Any establishment involved in the sale or rental of services or products characterized by the exposure or presentation of "specified anatomical areas" or physical contact of live male or females and which is characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons. Services or products included within the scope of adult entertainment business are photography, video products, dancing, reading, massage, and similar functions which utilize activities as specified above.

- B. "Specified Sexual Activities" means any of the following:
 - 1. Human genitals in a state of sexual stimulation or arousal.
 - 2. Acts, real or simulated, of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio, or sadomasochistic sexual abuse.
 - 3. Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.
- C. "Specified Anatomical Areas" means any of the following:
 - 1. Less than completely covered human genitals, pubic regions, buttocks, and female breasts below a point immediately above the top of the areola.
 - 2. Human male genitals in a discernible turgid state.
- D. "Person" means any individual, corporation, company, business, partnership, association, establishment, or other legal entity of any kind.
- E. "Fine Art Gallery" means any display of art work which is individually crafted and signed by the artist to which is limited in edition to 1,000 or less.
- F. "Sexually Explicit Nudity" means the sexually oriented and explicit showing of nudity, including, but not limited to, close-up views, poses, or depictions in such position or manner which present or expose such nudity to prominent, focal, or obvious viewing attention.
- G. "Sadomasochistic Sexual Abuse" means actual or simulated flagellation, rape torture, or other physical or sexual abuse, by or upon a person who is nude or partially denuded, or the condition of being fettered, bound for sexual gratification or abuse or represented in the context of a sexual relationship.
- H. "Visibly Displayed" means the material is visible on a billboard, viewing screen, marquee, newsstand, display rack, window, show case, display case, or other similar display area that is visible from any part of the general public or otherwise, or that is visible from any part of the premises where a juvenile is or may be allowed, permitted, or invited, as part of the general public or otherwise, or that is visible from a public street, sidewalk, park, alley, residence, playground, school, or other place to which juveniles, as part of the general public or otherwise, has unrestrained and reasonably anticipated access and presence.
- I. "Knowledge of Character" means having general knowledge, or reason to know; or a belief or ground for belief which warrants further inspection or inquiry, of the nature and character of the material or performance involved. A person has such knowledge when he or she knows or is aware that the material or performance contains, depicts, or describes sexually explicit nudity, sexual activity, sadomasochistic sexual abuse, or lewd exhibition of the genitals, whichever is applicable, whether or not such person has precise knowledge of the specific contents thereof. Such knowledge may be proven by direct or circumstantial evidence, or both.
- J. "Harmful to Juveniles" means any material or performance, whether through motion pictures, photographs, drawings, cartoons, slides, depictions, or descriptions in which 1, 2, and 3 apply.

- 1. The average adult person, applying contemporary community standards would find that the material or performance, taken as a whole, is intended to excite lustful or erotic thoughts in juveniles, or is designed or marketed to cater or appeal to a prurient interest in nudity, sex, or excretion.
- 2. The material or performance depicts or describes sexually explicit nudity, sexual activity, sadomasochistic sexual abuse, or lewd exhibition of the genitals, in a way which is patently offensive to prevailing standards in the adult community with respect to what is suitable for juveniles.
- 3. The material or performance, taken as a whole, lacks serious literary, artistic, political, educational or scientific value for juveniles.

1271.02 EXCEPTIONS.

- A. Nothing in this article shall be constructed to pertain to:
 - 1. The purchase, distribution, exhibition and/or loan of any work of art, book, magazine or other printed material or manuscript by any accredited museum, library, fine art gallery, school or institution of higher learning.
 - 2. The exhibition and/or performance of any play, drama, tableau, or motion picture by any theater, museum, library, fine art gallery, school or institution of higher learning either supported by public appropriation or which is an accredited institution supported by private funds.

1271.03 LOCATION.

Adult entertainment facilities, adult mini-motion picture theaters and adult entertainment facilities of any kind or type are limited to the Planned Manufacturing Districts (PM) as a conditional use, and are additionally subject to the conditions hereafter set forth in Section 1271.04.

1271.04 CONDITIONS.

- A. The following conditions shall apply for all adult entertainment facilities.
 - 1. No adult entertainment facility shall be established within 1,500 feet of any area zoned for residential use.
 - 2. No adult entertainment facility shall be established within a radius of 1,500 feet of any school, library, or teaching facility, whether public or private, governmental or commercial, which school, library, or teaching facility is attended by persons under 18 years of age.
 - 3. No adult entertainment facility shall be established within a radius of 1,500 feet of any park or recreational facility attended by persons under 18 years of age.
 - 4. No adult entertainment facility shall be established within a radius of 1,500 feet of any other adult entertainment facility.
 - 5. No advertisements, displays or other promotional materials displaying specific sexual activities or specified anatomical areas shall be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other areas public or semi-public.
 - 6. All building openings, entries, windows, etc. for adult uses shall be located, covered, or serviced in such a manner as to prevent a view into the interior from any public or semi-public area, sidewalk or street. For new construction, the building shall be oriented so as to minimize any possibility of viewing the interior from public or semi-public area.

- 7. No screens, loudspeakers or sound equipment shall be used for adult motion picture theaters (enclosed or drive-in) that can be seen or discerned by the public from public or semi-public areas.
- 8. Off-street parking shall be provided in accordance with standards for permitted uses within the PM zoning districts as appropriate.
- 9. Sections (1) through (5) above, may be waived by the Board of Zoning Appeals provided that the applicant provides affidavits of 51 percent (51%) of the property owners and resident freeholders within the above described radius, giving their consent to the establishment of adult entertainment facility and if the Board determines:
 - a. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this section will be observed.
 - b. That the proposed use will not enlarge or encourage the development of a skid row or similar depressed area.
 - c. That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of urban renewal, residential or commercial reinvestment, or renovation of a historical area.
 - d. That all applicable regulations of this section will be observed.
- 10. No adult entertainment facility shall be established within a radius of 1,500 feet of any church, synagogue, or permanently established place of religious services attended by persons under 18 years of age.
- 11. No adult entertainment facility shall be established without having obtained a conditional use zoning permit.

1271.05 UNLAWFUL EXHIBITION OR DISPLAY OF HARMFUL MATERIAL TO JUVENILES.

- A. No person having custody, control, or supervision or any business or commercial establishment or premises, with knowledge of the character of the material involved, shall do or cause to have done any of the following:
 - Allow, permit, or fail to prevent any juvenile who is not accompanied by a parent or lawful guardian to enter or remain on premises if in that part of the premises where the juvenile is or may be allowed, permitted, or invited as part of the general public or otherwise, there is visibly displayed all or any part of any book, magazine, newspaper, or other form of any material which is either of the following: harmful to juveniles, when taken as a whole; or contains on its cover, package, wrapping, or within the advertisements therefor, depictions or photographs of sexually explicit nudity, sexual activity, sadomasochistic sexual abuse, or lewd exhibition of the genitals.
 - 2. Visibly display, exhibit, or otherwise expose to view, all or any part of such material in any business or commercial establishment where juveniles, as part of the general public or otherwise, are, or will probably be, exposed to view all or any part of such material from any public or private place.

3. Hire, employ, or otherwise place, supervise, control, or allow in any business or commercial establishment or other place, any juvenile under circumstances which would cause, lead or allow such juvenile to engage in the business or activity of selling, distributing, disseminating, or otherwise dealing or handling such material, either to or for adults or juveniles.

1271.99 PENALTY.

Violation of any provision of this chapter shall be a misdemeanor of the first degree, and shall be subject to the provisions of Section 1209.99, as well as loss of any conditional use granted for said premises.

CHAPTER 1273 Bed and Breakfast Facilities

1273.01	Purpose.	1275.05	Site-related standards.
1273.02	Description.	1275.06	Conditional use review.
1273.03	Where these regulations apply.	1273.07	Monitoring.
1273.04	Use-related regulations.		_

CROSS REFERENCES

Bed and breakfast defined - see P. & Z. 1203.03 Home occupations generally - see P. & Z. Ch. 1267

1273.01 PURPOSE.

This chapter provides standards for the establishment of bed and breakfast facilities. The regulations are intended to allow for a more efficient use of large, older houses in residential areas if the neighborhood character is preserved to maintain both the residential neighborhood experience and the bed and breakfast experience. These regulations enable owners to maintain large residential structures in a manner which keeps them primarily in residential uses. The proprietor can take advantage of the scale and often the architectural and historical significance of a residence. The regulations also provide an alternative form of lodging for visitors who prefer a residential setting.

1273.02 DESCRIPTION.

- A. Bed and breakfast facility. A private residence where lodging and breakfast is provided by a resident family for compensation. Such a facility is generally used by transients.
- B. Retail Sales and Service use. In zones where Retail Sales and Service uses are allowed, limited or conditional uses, a bed and breakfast facility is defined as a hotel and is included in the Retail Sales and Service category.

1273.03 WHERE THESE REGULATIONS APPLY.

The regulations of this chapter apply to bed and breakfast facilities in any zoning district where a residential use is permitted or conditionally permitted.

1273.04 USE-RELATED REGULATIONS.

A. Accessory use. A bed and breakfast facility must be accessory to a Household Living use on a site. This means that the individual or family who operates the facility must occupy the house as their primary residence.

- B. Maximum size. Bed and breakfast facilities are limited to a maximum of 5 bedrooms for guests and a maximum of 10 guests per night. In the single-dwelling zones, bed and breakfast facilities over these size limits are prohibited.
- C. Employees. Bed and breakfast facilities may have nonresident employees for the lodging activity such as booking rooms and food preparation, if approved as part of the conditional use review. Hired service for normal maintenance, repair and care of the residence or site such as yard maintenance may also be approved. The number of employees and the frequency of employee auto trips to the facility may be limited or monitored as part of a conditional use approval.
- D. Services to guests. Food services may be provided only to overnight guests of a bed and breakfast facility.
- E. Commercial Meetings. Activities including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation, are permitted at a bed and breakfast facility subject to the occupancy limitations outlined in subsection B. above.
- F. Consecutive Nights. Each paying guest may stay at a bed and breakfast for not more than 30 consecutive nights at any single visit nor more than a total of 45 nights in any calendar year.

1273.05 SITE-RELATED STANDARDS.

- A. Development standards. Bed and breakfast facilities must comply with the development standards of the base zone, overlay zone, and plan district, if applicable.
- B. Appearance. Residential structures may be remodeled for the development of a bed and breakfast facility. However, structural alterations may not be made which prevent the structure being used as a residence in the future. Internal or external changes which will make the dwelling appear less residential in function are not allowed. Examples of such alterations include installation of more than five parking spaces, paving of required setbacks, and commercial-type exterior lighting.
 - C. Signs. Signs must meet the regulations for houses.
- D. Parking. One off-street parking space shall be required per guest room. If parking spaces are off-site, a written agreement between the owner of the parking space(s) and the bed and breakfast facility operator is required.

1273.06 CONDITIONAL USE REVIEW.

Bed and breakfast facilities require a conditional use review. The approval criteria are stated in Chapter 1215.

1273.07 MONITORING.

All bed and breakfast facilities must maintain a guest log book. It must include the names and home addresses of guests, guest's license plate numbers if traveling by car, dates of stay, and the room number of each guest. The log must be available for inspection by City staff upon request.

CHAPTER 1275 Cluster Housing

1275.01 Purpose. 1275.02 Description. 1275.03 Regulations.

1275.01 PURPOSE.

The cluster housing regulations have several potential public benefits. They:

- Provide flexible development options where the standard rectilinear lot pattern is not practical due to of physical constraints;
- Promote the preservation of open and natural areas;
- Allow for common open areas within a development project while still achieving the density of the base zoning district; and
- Support reductions in development costs. (Ord. 2015-4229. Passed 6-15-15.)

1275.02 DESCRIPTION.

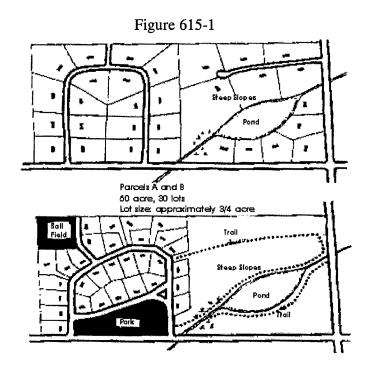
A cluster housing development is a subdivision containing houses with some or all of the lots reduced below the minimum lot sizes, but where the overall development meets the density standard for the zoning district. These developments require that the planning for lots and the locations of houses on the lots be done at the same time. Because the exact location of each house is predetermined, greater flexibility in development standards can be possible while assuring that the single-dwelling character of the zoning district is maintained.

Figure 615-1 provides an example of cluster housing. (Ord. 2015-4229. Passed 6-15-15.)

1275.03 REGULATIONS.

- A. Qualifying situations. Cluster housing developments are permitted in the AG, RR and R-87, R-20, R-15, R-10 and R-7 zoning districts.
- B. Procedure for approval. Cluster housing developments are subject to the subdivision review process.
- C. Density. The overall project may not exceed the density allowed by the base zone. In calculating the density, the area of the whole subdivision is included, except for public or private streets.
- D. Lot sizes. There is no minimum lot size (area, width, or depth). Lot sizes must be adequate to meet all required development standards of this chapter.

- E. Housing types allowed. Single family residential dwellings are the only type of housing allowed. the proposed locations for all houses must be shown on the plat map. The house locations must be shown in enough detail so that compliance with the required development standards is assured.
- F. Building setbacks. Along the perimeter of the project, all development must meet the building setback standards of the base zone. Within the project, the distance between houses must be at least 10 feet.
- G. Maximum Lot Occupancy. The maximum lot occupancy standards of the base zoning district do not apply to individual lots, but do apply to the overall project. Allowable areas for buildings must be shown on the plat map.
- H. Preservation of water features. Water features such as drainageways and streams must be left in a natural state unless altered to improve the amenity of the water feature for the development's residents or to improve stormwater drainage. Water features must be in common ownership unless otherwise approved as part of the subdivision review.
- I. Maintenance. An enforceable maintenance agreement for any commonly owned areas must be created and recorded. The agreement must be approved by the Law Director and City Administrator to assure that the City's interests are protected.



(Ord. 2015-4229. Passed 6-15-15.)

CHAPTER 1277 Hotels and Motels

1277.01	Purpose.	1277.04	Use-related regulations
1277.02	Description.	1277.05	Site-related standards.
1277 03	Where these regulations apply		

CROSS REFERENCES Hotels and motels defined - see P. & Z. 1203.03

1277.01 PURPOSE.

This chapter provides standards for the establishment of hotels and motels. (Ord. 2005-3654. Passed 1-3-06.)

1277.02 DESCRIPTION.

- (a) <u>Hotel:</u> A building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. Incidental services may include: cooking facilities within units; furnishings; linen service; maid service; food service; banquet, reception, meeting and recreational facilities; and ancillary internal retail sales and services provided for the convenience of hotel guests.
- (b) <u>Motel or Motor Hotel:</u> An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without necessity of passing through the main lobby of the building. (Ord. 2005-3654. Passed 1-3-06.)

1277.03 WHERE THESE REGULATIONS APPLY.

The regulations of this chapter apply to Hotel and Motel Uses in a GB, General Business zoning district. (Ord. 2005-3654. Passed 1-3-06.)

1277.04 USE RELATED REGULATIONS.

- (a) <u>Maximum Size</u>. Hotels and motels are limited to a height of 35 feet and a maximum of 90 guest rooms.
- (b) <u>Commercial Meetings</u>. Activities including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation, are permitted at a Hotel or Motel.

(c) <u>Consecutive Nights</u>. Each paying guest may stay at a Hotel or Motel for not more than 30 consecutive nights at any single visit nor more than a total of 45 nights in any calendar year. (Ord. 2005-3654. Passed 1-3-06.)

1277.05 SITE-RELATED STANDARDS.

- (a) <u>Development Standards</u>. Hotel and Motel uses must comply with the development standards of the base zone, overlay zone, and plan district, if applicable.
 - (b) <u>Building Appearance</u>.
 - (1) Color Palette: Buildings shall be constructed of subdued, earth tone materials; muted colors are preferred. Accent colors in brighter hues are permitted for building accent features only.
 - Materials: Brick, stone, stucco stone, wood, pre-cast concrete, metal and glass are all permitted building materials.
 - (3) Roof: Pitched roofs with gabled or hipped ends are required with a slope equal to 5:12 or greater. Minimum 8" overhangs are required.
 - (4) Articulation and Fenestration: Buildings shall have a consistent finish on all four sides. Fenestration shall be proportional with building size and massing.
 - (c) <u>Signs</u>. Signs shall be as regulated in Chapter 1295.
 - (d) Parking Requirements. Parking requirements shall be as regulated in Chapter 1291.
 - (e) Lighting:
 - (1) Landscape and building uplighting from a concealed source shall be permitted. All building illumination shall be from concealed sources. No colored lights shall be used to light the exterior of the buildings.
 - (2) All parking lot lighting shall not exceed 18 feet in height from finished grade.
 - (f) Storage, Equipment and Service Areas:
 - (1) No materials, supplies, equipment or products shall be stored or permitted to remain on any portion of the parcel outside the permitted structure. Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from view with material harmonious with the building.
 - (2) No area of the site shall be used for outside storage.
 - Service courts and loading docks shall be screened from all streets or adjacent buildings by landscaping, mounding or walls. (Ord. 2005-3654. Passed 1-3-06.)

CHAPTER 1279 Fences

1279.01 Permit required. 1279.02 Maintenance. 1279.03 Height and location. 1279.99 Penalty.

CROSS REFERENCES Fences - see GEN. OFF. 521.07 Screening - see P. & Z. Ch. 1283

1279.01 PERMIT REQUIRED.

Before a fence or wall is erected within the City, unless in an Agricultural District, a property owner or his agent must file application with the Zoning Inspector. Such application shall be on such forms as provided for in this Code and shall include a drawing of the lot, to scale, showing the actual location and dimensions of the proposed wall or fence. Each property owner shall determine property lines and certify that the fence or wall does not encroach upon another lot or parcel of land.

1279.02 MAINTENANCE.

All fences and walls shall be maintained in good repair, and in a manner that ensures continued structural integrity. Where adjoining property owners share partition fences or walls between them, unless otherwise agreed upon by them in writing, the adjoining property owners shall share equally the building and maintenance of such partition fences or walls.

1279.03 HEIGHT AND LOCATION.

A. The permitted height of a fence or wall shall be determined by its location on the property as follows:

1. A fence or wall not exceeding 48 inches in height may be erected between the building setback line and a line three (3) feet toward the building setback line from the street right-of-way line.

2. A fence or wall not exceeding 72 inches in height may be erected in any

area of the lot behind the building setback line.

- 3. A fence or wall higher than 72 inches may be requested as a variance which would be considered by the Board of Zoning Appeals with notification of adjoining property owners. A living fence shall not be limited by the 72 inch restriction.
- 4. No fence or wall may be erected within three (3) feet of the street right-of-way line.
- 5. All fences and walls shall meet the traffic sight triangle visibility requirements in Section 1283.06-14. (Ord. 2008-3884. Passed 1-5-09.)

1279.99 PENALTY.

Violation of any provision of this chapter shall be a misdemeanor of the first degree, and shall be subject to the provisions of Section 1209.99, as well as loss of any conditional use granted for said premises.

CHAPTER 1281 Gasoline Service Stations

1281.01	Purpose.	1281.05	Location.
1281.02	Minimum lot size.	1281.06	Setbacks.
1281.03	Minimum building or structure	1281.07	Driveways and parking areas.
	size.	1281.08	Parking.
1281.04	Minimum frontage.	1281.09	Outside storage.
	S .	1281.10	Signs.

CROSS REFERENCES

Self-service filling stations - see Ohio R.C. 3741.14 Abandoned service stations - see Ohio R.C. 3791.11 et seq. Service station defined - see P. & Z. 1203.03

1281.01 PURPOSE.

Gasoline service stations are listed as a conditional use in the LB and GB zoning districts. In addition to the requirements of the district in which the gasoline service station is located, and other provisions of this Code, gasoline service stations shall be subject to requirements defined in this chapter.

1281.02 MINIMUM LOT SIZE.

The minimum lot size shall be 20,000 square feet.

1281.03 MINIMUM BUILDING OR STRUCTURE SIZE.

The building shall have an enclosed area of not less than 800 square feet if any service is offered on or from the premises other than the delivery of gasoline, diesel fuel or oil for use as vehicle fuel or lubrication. If a gasoline service station offers no service other than the delivery of gasoline, diesel fuel or oil into vehicles, the enclosed area of the building shall not be less than 600 square feet. No such limited gasoline service station may offer to provide lubrication, oil changes, repairs or other equipment installation.

1281.04 MINIMUM FRONTAGE.

The lot on which a gasoline service station is located shall have frontage of not less than 150 feet along a dedicated and improved street. If a gasoline service station is located on the corner of two (2) or more intersecting streets, it shall have 150 feet of frontage on each intersecting street.

1281.05 LOCATION.

No gasoline service stations shall be located on any lot within 200 feet of any zoning district where residences are permitted.

1281.06 SETBACKS.

The pump island setback in a gasoline service station, which shall be the minimum location for pumps dispensing fuels or oil products, shall be 40 feet from the right-of-way of any street, and 40 feet from any adjoining property line. Any building located on such premises shall be located not less than 50 feet from the right-of-way of any street.

1281.07 DRIVEWAYS AND PARKING AREAS.

Driveways and parking areas shall be paved and properly drained. The landscaping of areas along the perimeter of the lot is required, pursuant to Chapter 1283.

1281.08 PARKING.

Gasoline service stations shall be subject to the parking and loading provisions of Chapter 1291. In addition, no inoperable or damaged motor vehicle shall be parked outside a gasoline service station building in excess of 72 hours. Parking areas shall be located not closer than five (5) feet to the main building.

1281.09 OUTSIDE STORAGE.

- A. Outside storage shall be in accordance with the following requirements:
 - 1. Display Racks Only one permanent or one portable display rack for oil, antifreeze, or other automotive products shall be permitted on each pump island. No such rack shall be located closer than 25 feet to the street right-of-way line or adjoining property line. All other displays or storage of merchandise outside the main building is subject to Section 1221.05.
 - 2. Equipment All hydraulic hoists, oil pits, lubricants and greasing, and other repair equipment shall be enclosed completely within the main building.

1281.10 SIGNS.

All signs used in connection with gasoline service stations shall be in conformance with Chapter 1295.

CHAPTER 1283 Landscaping and Screening

1283.01 1283.02	Environmental Plan. Preservation Zones.	1283.06	Landscaping and screening standards.
1283.03	Tree preservation and replacement.	1283.07	Application of landscaping standards.
1283.04	Tree replacement exemptions.		
1283.05	Street trees.		

CROSS REFERENCES Fences - see P. & Z. Ch. 1279

1283.01 ENVIRONMENTAL PLAN.

A. Environmental Plan. An environmental plan shall be required to be submitted by the developer; in the case of any Planned Development District (PDD), with the preliminary site design upon request for rezoning the parcel or parcels of land to be developed; in the case of development of a subdivision, with the site design of the preliminary plan. This plan is required so that all environmental concerns are evaluated before a development occurs and to ensure that the natural environment is protected. Each environmental plan shall include, but not be limited to the following:

1. A description of the general nature of the proposed action/development;

A description of the existing environmental features on the property including wetlands, ravines, flood plains, streams, lakes, ponds, and steep slopes (areas with an average slope of greater than 35%);

3. A description of the potential environmental impact of the action/development; and

- 4. A description of the alternatives and other proposed actions to avoid, minimize, and mitigate any potential short-term or long-term impacts on the existing environmental conditions.
- B. Impact Statement. An impact statement shall be required to be submitted by the developer with the environmental plan. This statement shall include a statement of the short and long term direct and indirect effects of the proposed development on natural features of the development including, but not limited to soils, geology, surface water, and ground water, vegetation, wetlands, woodlands, wildlife, air, reflected or generated light, noise, historical areas, and visual aesthetics.

- C. Mitigation Statement. A mitigation statement may be required by the City if conditions exist that may cause significant adverse environmental impacts as a result of the development. The mitigation statement shall become part of the environmental plan and shall include:
 - 1. A site plan, drawn to scale, showing the location of the natural features that are to be disturbed and to be left undisturbed;
 - 2. A site plan showing the location of the proposed buffer zones and preservation zone that will alleviate the adverse impacts of the development;
 - 3. A statement that addresses the plans for mitigating the adverse environmental impacts and the replacement or restoration of areas that are considered environmentally significant. This statement shall address the type, size, and amount of materials and/or vegetation that shall be used for replacement or restoration;
 - 4. A statement, if applicable, that includes all other means by which the developer plans to address the environmental impacts (e.g., purchase of mitigation acreage for impacted wetlands habitat).
 - D. The Planning and Zoning Commission shall consider the environmental plan:
 - 1. When considering the zoning request in the case of a requested PDD;
 - 2. During consideration of the preliminary plan in the case of the proposed development of a subdivision.
- E. The developer shall provide proof of compliance from the applicable regulatory agency with all other requirements as governed by the Flood Damage Prevention Regulations for the City of Pataskala and the following statutes prior to breaking ground: Section 404 of the Clean Water Act, Section 401 of the Clean Water Act.

1283.02 PRESERVATION ZONES.

- A. Description of Preservation Zones. Preservation zones are natural areas that protect both aesthetic appearance and environmental significance including but not limited to, woodlands, wetlands, ravines, flood plains, streams, lakes, ponds and/or steep slopes by providing effective buffers between land uses. Such zones shall be designated on the preliminary site plan. It is the intent of this Code to encourage the use of these preservation zones in all subdivision development. It is further intended that this Code not preclude and/or prevent development, but protect and preserve environmentally significant areas by fostering the use of buffer zones that could be integrated into the development. Preservation zones shall be used in a manner that promotes and protects public safety, convenience, comfort, property, and general welfare of the City.
- Determination of Preservation Zones. Determination of Preservation Zones shall be designated on the basis of the Environmental Plan and in accordance with the areas identifying groundwater resources, woodlands, and wetlands as identified by Lima Township Comprehensive Plan, and Section 6, Land Capability, of the Pataskala Comprehensive Plan, or the revised City of Pataskala Comprehensive Plan, when adopted. The preservation zones shall be clearly marked on the Comprehensive Plan and/or development site plan, if any and all shall be a guide in determining the areas that are considered as preservation zones. However, this shall not preclude the Planning and Zoning Commission from recommending and/or approving preservation zones in other areas that are considered to be environmentally significant. In determining the preservation zones, the Planning and Zoning Commission shall determine the area(s) identified on the site plan that need to be protected from development and which could serve as a buffer between land uses. No approval shall be given to impact a preservation zone unless prior written approval from the Planning and Zoning Commission is provided. Clearing a site of trees prior to submitting for zoning review or site plan review shall result in a penalty as identified in 1283.02 F., Violations.

- C. Delineation of the Preservation Zone(s). Delineation of the Preservation Zone(s) shall be made by the Planning and Zoning Commission during the zoning process, Preliminary Site Plan approval for any subdivision, TC Overlay District Review, Planned Development District, and/or through the Comprehensive Plan. All delineated preservation zones shall be protected in accordance with subsection D, below and become a part of the final development plan for any such subdivision and Planned Development District.
- Enclosure and Protection. Before any activity, clearing, and/or construction begins, the entire preservation zone(s) shall be enclosed with at least three foot high orange construction fencing to prevent any access to the preservation zone(s). Such fencing shall protect the root systems of vegetation within the preservation zone. The fencing shall only be taken down for an individual lot when an occupancy permit has been issued for the structure on the concerned lot or when final build-out is completed. Such preservation zones shall not be disturbed any time before, during, or after construction except for necessary access as approved by the Zoning Inspector. No permanent or temporary structure, building, or fence shall ever be placed upon or in any preservation zone. Utilities and roadways in preservation zones shall only be installed consistent with the Environmental Plan and Mitigation Plan for the subdivision. No development, clearing, thinning, construction, or work shall be conducted within the preservation zone except for necessary construction as deemed by the Zoning Inspector. If a preservation zone is disturbed at any time by the developer, contractor, subcontractor, builder, property owner or representative, such disturbances that occur shall be restored to an approved condition within twelve months, subject to the approval of the Zoning Inspector. Obnoxious weeds and/or brush of less than one inch in caliper may be removed without destroying the integrity of the preservation zone. No dirt, stones, wood, or debris shall be placed within the preservation zone. A utility company servicing and/or installing utilities in the designated preservation zone shall be subject to these restrictions. These restrictions shall be printed on the final plat, the final development plan and/or site plan as a deed restriction for the affected lots. Drainage shall not be altered in a manner that will damage the preservation zone. The developer shall notify each property purchaser in the concerned subdivision and/or development of the preservation zone requirements. Such notification shall be in writing and shall be submitted to the property purchaser prior to or at the time of closing. The developer shall notify all contractors, utility companies, and/or cable companies doing work in the concerned subdivision or development of the preservation zone requirements before construction begins.

E. Tree Save Areas and Methods of Tree Protection During Construction.

- Planning Considerations. Any tree save area shall be classified as a preservation zone. Tree space is the most critical factor in tree protection throughout the development process. The root system of trees can easily extend beyond the drip line of the tree canopy (Figure 1283.02-01). The root system within the drip line region is generally considered to be the critical root zone. Disturbance within this zone can directly affect a tree's chances for survival. To protect these critical root zones, the following standards shall apply:
 - The use of tree-save islands and stands is strongly encouraged rather than the protection of individual (non-specimen) trees scattered throughout a site. This will facilitate ease in overall site organization as related to tree protection. In addition, individual trees with a Diameter Breast Height (DBH) of six inches or greater or of significant environmental, historical, or aesthetic significance shall be protected and be included in overall development plans to the maximum extent possible;

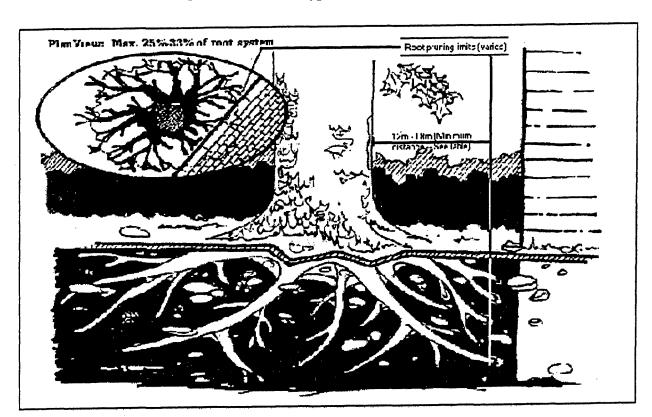


Figure 1283.02-01 Typical Critical Root Zone

- b. The protective zone of specimen trees or stands of trees or otherwise designated tree save areas shall include no less than the total area beneath the tree(s) canopy as defined by the farthest canopy drip line of tree(s). In some instances, the Zoning Inspector may require a protective zone in excess of the area defined by the tree's drip line;
- c. Layout of the project site utility and grading plans should accommodate the required tree protective zones. Utilities shall be placed along corridors, when practical, or through preservation zones in accordance with subsection E.4, below, when necessary;
- d. Construction site activities such as parking, material storage or material conveyance, concrete washout, burn hole placement, etc., shall be arranged so as to prevent disturbances within tree protective zones:
- e. No disturbance shall occur within the protective zone of specimen trees or stands of trees without prior approval by the Zoning Inspector.

2. Protective Barriers.

- a. Active protective tree fencing shall be installed along the outer edge of and completely surrounding the critical root zones of all specimen trees or stands of trees, or otherwise designated tree protective zones, prior to any land disturbance.
- b. These fences will be a minimum four feet high, constructed in a post and rail configuration. A two-inch by four-inch post and a double one-inch by four-inch rail is recommended. Four-foot orange polyethylene laminar safety fencing is also acceptable.
- c. Passive forms of tree protection may be utilized to delineate tree save areas which are remote from areas of land disturbance. These areas must be completely surrounded with continuous rope or flagging (heavy mill, minimum two inches wide). All passive tree protection must be accompanied by "Keep Out" or "Tree Save" signage. Figure 1283.02-02.
- d. All tree protection zones should be designated as such with "Tree Save Area" signs posted visibly on all sides of the fenced-in area. These signs are intended to inform subcontractors of the tree protection process. Signs requiring subcontractor cooperation and compliance with tree protection standards are recommended for site entrances.

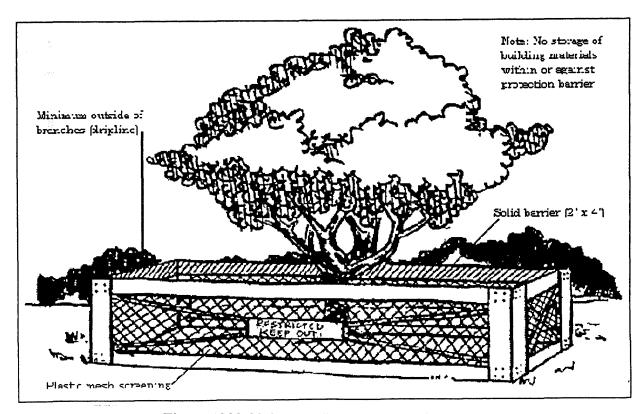
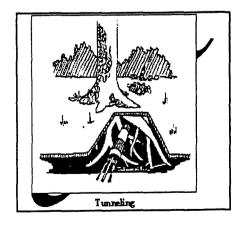


Figure 1283.02-02 Tree Protection Detail

- e. All specimen trees or stands of trees, or otherwise designated tree protective zones, must be protected from the sedimentation of erosive material.
 - (1) Silt screening must be placed along the uphill edge of tree protective zones at the land disturbance interface.
 - (2) Silt screening should be backed by 12 gauge 2 inch x 4 inch wire mesh fencing in areas of steep slope (areas with an average slope of 35% or greater.)
- f. All tree fencing and erosion control barriers must be installed prior to and maintained throughout the land disturbance process and building construction, and should not be removed until landscaping is installed.
- 3. Encroachment. Most trees can tolerate only a small percentage of critical root zone loss. If encroachment is anticipated within the critical root zones of specimen trees, stands of trees, or otherwise designated tree protective zones, the following preventive measures shall be employed:
 - a. Clearing Activities: Roots often fuse and tangle amongst trees. The removal of trees adjacent to tree save areas can cause inadvertent damage to the protected trees. Wherever possible, it is advisable to cut minimum two foot trenches (e.g., with a "ditchwitch") along the limits of land disturbance, so as to cut, rather than tear, roots. Trenching may be required for the protection of specimen trees.
 - b. Soil Compaction: Where compaction might occur due to traffic or materials storage, the tree protective zone must first be mulched with a minimum four inch layer of natural biodegradable materials.
 - c. Trenching: The installation of utilities through a protective zone should occur by way of tunneling rather than trenching. (Figures 1283.02-04 and 1283.02-05). If roots must be cut, proper root pruning procedures must be employed.

Figure 1283.02-04 Tunneling for Underground Utilities vs. Trenching



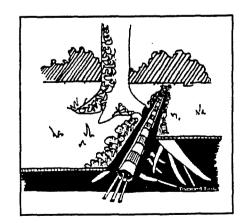
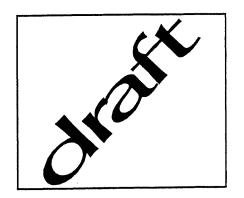
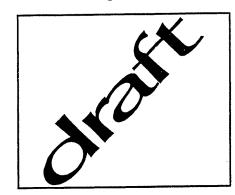
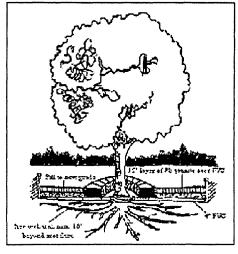


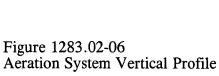
Figure 1283.02-05 Root Loss from Trenching Versus Tunneling





- d. Grade Changes: Moderate fill can be tolerated within a tree's critical root zone with the prior installation of an aeration system. Aeration system specifications are provided in Figures 1283.02-06 and 1283.02-07. Commercially available aeration systems are subject to approval by the Zoning Inspector. A decrease in grade is best accomplished with the use of retaining walls or through terracing. (Figure 1283.02-08.)
- e. Where the Zoning Inspector has determined that irreparable damage has occurred to trees within tree protective zones, the trees must be removed and replaced according to the ratio specified in Table 1283.03-01 or Table 1283.03-02.





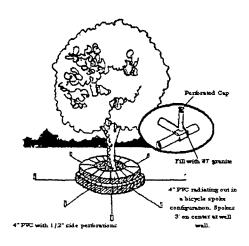
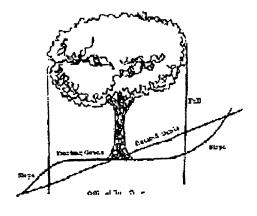


Figure 1283.02-07



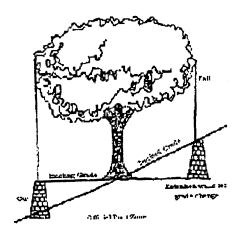


Figure 1283.02-08 Grade Changes

- 4. Remedial Procedures. Remedial site reclamation and tree care procedures shall be implemented when encroachment within protective zones has caused damage to either the tree or the tree's growing site, and that damage is repairable. The survivability of trees damaged through construction activities can be improved with the implementation of remedial procedures. If encroachment is anticipated, these cultural practices should be employed as pre-emptive measures to improve survival. The following practices shall be applied where appropriate.
 - Pruning. The pruning of a tree in anticipation of construction damage may provide compensation for potential root loss and produce an invigorating response. A tree that has suffered root damage becomes stressed as that root system no longer provides sufficient water and nutrients for the existing crown. This stress becomes evident with the appearance of "staghorns" or deadwood within the tree's crown. Once a tree has become construction damaged, only minor pruning is recommended. Pruning for deadwood removal is then recommended. The removal of live plant tissue from a construction damaged tree can accelerate the tree's decline. Pruning of root severed trees may reduce the possibility of wind-throw. Trees which have not been affected by construction activities can be pruned for maintenance of the tree's health, appearance, and safety.
 - (1) Pruning specifications as provided by the National Arborist Association (N.A.A.) in "Pruning Standards for Shade Trees" shall apply. The pruning of specimen trees may be subject to approval by the Zoning Inspector.

- b. Fertilizer applications will enhance the vigor of trees stressed by site disturbances, thereby promoting root development. Information regarding appropriate fertilizers and application rates may be obtained from the Licking County Agricultural Extension Office.
- c. A tree's ability for adequate root development, and ultimately its chances for survival, are improved with reclamation of the growing site.
 - (1) Wherever possible, the soil should be brought back to its natural grade. Unnecessary fill, erosion sedimentation, concrete washout, and construction debris shall be removed. When machinery is required for site improvement, it is recommended that every effort be used so as to minimize soil compaction.
 - (2) Compacted soil within the critical root zones of trees should be aerated. This is best accomplished with a two inch diameter auger. Holes should be drilled to a depth of 10-15 inches, approximately two to three feet apart, and radiating outward from the tree's trunk in a bicycle spoke configuration. This aeration technique is also recommended for areas affected by minor fill or the sedimentation of erosion materials.
 - (3) The air exchange, nutrient, and water holding capacities of soils can be improved with soil amendments. This is best accomplished by backfilling holes from aeration, with mineral amendments such as perlite or vermiculite.
 - (4) A four to six inch layer of mulch material, such as pine bark or wood chips, spread within the critical root zones of trees on construction sites is extremely beneficial. These benefits include:
 - (a) Conservation of soil moisture:
 - (b) Reduced rainfall runoff and erosion;
 - (c) Reduced soil compaction from construction activities;
 - (d) Reduced competition from grasses and weeds;
 - (e) Increased soil fertility;
 - (f) Improved soil structure;
 - (g) Moderation of soil temperature, with a subsequent increase in root development activity.
- d. The availability of water to trees on construction sites should be monitored. The environment of these sites is altered significantly from the trees' natural environment. Extremes in water availability, ranging from drought to flood conditions can occur quite readily as a result of grade changes. If grade changes or excessive rain cause the accumulation of water near trees, steps must be taken to improve drainage. Conversely, grade changes, or prolonged periods without rain, can cause a drought situation, and irrigation may be necessary.
- F. Violation. Violation of the preservation zone requirements shall result in the issuance of a "cease and desist" order issued by the Zoning Inspector. Any on-site work within the development shall not resume until such time that the preservation zone has been restored to an approved condition or based on approval by the Zoning Inspector of a restoration plan. No person shall violate a preservation zone after occupancy. A homeowner and/or individual who violates any provision of this section or fails to comply with any of its requirements, including violations of conditions and safeguards established in connection with preservation zones shall, upon conviction thereof, be found guilty of an unclassified misdemeanor and shall be subject to a fine not to exceed one thousand dollars (\$1,000) and, in addition, shall pay all costs and expenses involved in the case, including the costs of restoring the area to its condition (to the

maximum extent practicable) prior to the violation. Each day the violation continues shall be considered a separate offense. An organization (including but not limited to a developer, contractor and/or subcontractor) who violates any provision of this section or fails to comply with any of its requirements, including violations of conditions and safeguards established in connection with the preservation zone(s) shall, upon conviction thereof, be found guilty of an unclassified misdemeanor and shall be subject to a fine not to exceed one thousand dollars (\$1,000) and, in addition, shall pay all costs of restoring the area to its original condition (to the maximum extent practicable) prior to the violation. Each day the violation continues shall be considered a separate offense. Nothing herein shall prevent Council from taking such other lawful action as is necessary to prevent or remedy any violation. Clearing a site of trees in excess of 5% of the total amount of the site prior to submitting for zoning review or site plan review shall result in a penalty amounting to mitigation of trees at a ratio equal to the number of trees and caliper of trees on the site prior to demolition. If the number cannot be determined, the amount shall be determined by the City at the maximum quantity and highest quality of trees that may have existed on the site prior to clearing.

The mitigation ratio necessary will be determined by the standard tree mitigation ratios as defined in Tables 1283.03-01 and 1283.03-02. (Ord. 2005-3600. Passed 3-21-05.)

1283.03 TREE PRESERVATION AND REPLACEMENT.

- A. Purpose. The City of Pataskala recognizes the aesthetic, ecological, and economic value of existing tree and woodland preservation and requires preservation and/or replacement to:
- Promote the re-establishment of vegetated wildlife habitat in urban areas for aesthetic, health, and urban wildlife reasons;
- Establish and enhance a pleasant visual character which recognizes aesthetics and safety issues:
- Promote compatibility between land uses by reducing the visual, noise, and lighting impacts of specific development on users of the site and abutting uses;
- Unify development, and enhance and define public and private spaces;
- Promote the retention and use of existing wooded areas;
- Restore natural native tree communities through re-establishment of native trees; and
- Mitigate for loss of natural resource values.
- B. Requirements. The following requirements consist of a set of landscaping and screening standards and regulations for the City. The regulations address materials, placement, layout, and timing of installation. Specific requirements for mitigation plantings shall be identified by the Zoning Inspector and the Planning and Zoning Commission, as warranted. These requirements and conditions shall be considered as part of the preliminary plan approval.
 - Tree Preservation. Any tree on the site with a caliper of eight inches or more at a height of five feet above the ground, or ornamental trees over twelve feet in height shall be identified as a major tree and shall be protected and preserved unless exempted, as follows: The Zoning Inspector may approve the cutting down, removal or destruction of a major tree when the tree interferes with the proper development of a lot, provided that the lot is the subject of an application for approval of a zoning certificate, variance, or conditional use, and one of the following applied:
 - a. The tree will be located within a public right-of-way or easement;
 - b. The tree is located within the area to be covered by proposed structures or within 12 feet from the perimeter of proposed or existing structures;

c. The tree will be located within a proposed driveway designed to service a proposed use;

d. The tree is damaged or diseased;

Any tree removed shall be mitigated upon completion of the development of the lot using the criteria identified in Paragraph 2, below.

2. Tree Replacement Requirements.

a. Any tree on the site with a caliper of eight inches or more at a height of five feet above the ground, or ornamental trees over twelve feet in height which are to be removed during the site development shall be replaced using the following ratio(s) from the following table(s) resulting in no net/value loss:

Table 1283.03-01
Replacement requirements for removal of all species in excess of 8" caliper.

Caliper at 5' level (of tree to be removed)	Replacement Species (note all replacement trees shall be native to Ohio) If replaced with a Native tree	Required Caliper at 5' from ground level	Mitigation ratio
8" to 15"	(not listed in Table 1283.03-02)	2 1/2"	2:1
	If replaced with a tree (not listed in Table 1283.03-02)	2 1/2"	3:1
greater than 15"	If replaced with a tree (listed in Table 1283.03-02)	2 1/2"	4:1
	If replaced with a tree (not listed in Table 1283.03-02)	2 1/2"	5:1

Table 1283.03-02 Preferred Native Trees for replanting zones

Botanical Name Common Name

Aesculus glabra Ohio Buckeye

Quercus spp. Oaks

Carya laciniosa Shellbark Hickory

Carya Shagbark Hickory

Carya illionensis Pecan

Castenea dentata Chestnut (hybrid)

Sassifras albidum Sassafras

Liriodendron tulipifera Tuliptree

Prunus serotina Black Cherry

Abies balsamea Balsam Fir

Picea glauca White Spruce

Pinus resinoso Red Pine

Celtis Occidentalis Hackberry

Morus Ruba Red Mulberry

Acer saccharum Sugar Maple

Tulia americana American Basswood

Fagus grandifolia American Beech

(Ord. 2005-3600. Passed 3-21-05.)

1283.04 TREE REPLACEMENT EXEMPTIONS.

Tree replacements shall not be required of playing fields and other non-wooded recreation areas; and other facilities and uses of a similar nature. Also, a developer may contribute to a fund established by Council for the purpose of ecological preservation in lieu of replacing trees at a 3 to 1 ratio.

1283.05 STREET TREES.

Street Tree Table 1283.05-01

The developer shall provide documentation of acceptable growth habit for any other species proposed for specific locations.

Also see Figure 1283.05 A-2.

Tree Lawn Size (in width)	Maximum Height at Maturity	Example Species
Tree lawn two feet to three feet in width	15 feet	Flowering Crabapple, Flowering Dogwood
Tree Lawn three feet to five feet in width	25 feet	Hop Hornbeam, Sourwood, American Hornbeam, Kwanzan Flowering Cherry, Flowering Plum, Crusader Thornless Hawthorn, Red Buckeye
Tree Lawn five feet to ten feet in width	40 feet	Maple Species (except Silver), Sunburst Locust, Red Oak, Greenspire Linden
Tree Lawn over ten feet in width	>40 feet allowable	Amur Cork Tree, Norway Maple, Emerald Queen Maple, Common Hackberry, Shademaster Locust, Thornless Locust, Male Gingko, Snowdrift Crab, Red Bud, Dogwood, London Plane, Oak Species, River Birch, Ash, Skyline Locust, Honey Locust, Sweet Gum, Little Leaf Linden, Ornamental Pear, Shag Bark Hickory.

- A. In addition to the requirements identified in Sections 1283.01 through 1283.03 in every development requiring a site or development plan, there shall be planted a species appropriate to the specific location on the site being developed, at least one deciduous tree from Table 1283.05-01, with a caliper measured five feet above the ground of not less than two inches, for every thirty feet of public street frontage.
- B. Tree location shall be at least twenty (20) feet from street intersections and shall not be located within ten (10) feet of any fire hydrant, underground utility, or utility pole.
- C. The Planning and Zoning Commission may reduce or eliminate the standard identified in subsection A. hereof, above, based on the size, street frontage, existing vegetation (as identified as preservation area(s)), and specific conditions of the site.
- D. No street trees shall be placed in conflict with existing or proposed road or utility rights of way.
- E. Ongoing maintenance:
 - The developer of a property shall warrant and be responsible for maintenance of street trees for a period of one year after acceptance of public improvements. After the one year maintenance period, any trees or landscaping, whether or not installed in the public right of way, but which are also within the lot line boundaries of the property owner, shall be the responsibility of the property owner to maintain.
 - 2. Tree limbs extending over a sidewalk shall be trimmed to such an extent that no portion of the same shall be less than seven feet above the sidewalk. Tree limbs extending over streets shall be trimmed in clear height so that no portion of the branches shall interfere with the normal flow of traffic, or be damaged by passing vehicles.
 - 3. Severely damaged or dead street trees are to be replaced with similar species, or otherwise approved by the Zoning Inspector, of at least 2.5 inch diameter, measured at 6" above the soil line.

F. The City shall have the right to cause the pruning, maintenance and removal of trees, plants or shrubs within the established right-of-way lines of all streets, highways and alleys as may be necessary to insure public safety, or to remove such trees as may be injurious to sewers, water lines or other public improvements. The City Service Director or his designee shall have the right to order removal of such trees or shrubs identified as a hazard to the public health or safety, by delivery by any verifiable means of a written order. No more than thirty days will be permitted to complete such pruning, maintenance or removal. The City Service Director shall in this instance, also have the right to cause the replacement of the tree, per E.3 above at such time as favorable growing conditions preset themselves. Failure to comply with the order shall result in the cost of removal and replacement being assessed to the owner according to procedures established for moving tall grass.

G. Restrictions: The following trees shall not be planted on municipally owned property (including within the public right of way) without specific exemption by the Service Director or his

designee:

Acer Saccharinum (Silver Maple)
Acer negundo (Boxelder)
Ailanthus glandylesa (Tree of Heaven)
Betula (all birch)
Catalpa
Elaeagnus Angustifoia (Russian Olive)
Female Ginko Biloba
Li Riodendrontuipifera (Tulip Tree)
Morus (Mulberry)
Popicas Deltoriles (Cottonwood)
Populas (Poplars)
Robina pseudoacacia (Black Locust)
Sarbus (Aucuparia (European Mountain Ash)
Ulmus (Moline Elm)
Ulmus Pacviforica (Chinese Elm)

- **Ash Varieties of ash trees shall not be planted without approval from the City Service Director and Zoning Inspector based on assurance that the variety is immune to infestation by emerald ash borer o any other pest or disease that is known to cause tree death.
- * Evergreens and fruit trees may be suitable in park settings or landscaped buffers only if situated so that at maturity they will not encroach over pavement or interfere with traffic sight lines and safety. The City Service Director and the Planning and Zoning Commission shall review and approve landscape and street tree plans during the plan approval process. (Ord. 2009-3915. Passed 8-3-09.)

1283.06 LANDSCAPING AND SCREENING STANDARDS.

- 1. Purpose. The City of Pataskala recognizes the aesthetic, ecological, and economic value of landscaping and requires its use to:
- Promote the reestablishment of vegetation in urban areas for aesthetic and health reasons;
- Establish and enhance a pleasant visual character which recognizes aesthetics and safety issues;
- Promote compatibility between land uses by reducing the visual, noise, and lighting impacts of specific development on users of the site and abutting uses;
- Unify development, and enhance and define public and private spaces;
- Promote the retention and use of existing vegetation;
- Restore natural communities through re-establishment of native plants; and
- Mitigate for loss of natural resource values.

The following requirements consist of a set of landscaping and screening standards and regulations throughout the City. The regulations address materials, placement, layout, and timing of installation. Specific requirements for mitigation plantings shall be identified in the environmental plan.

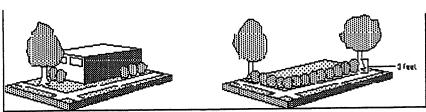
The following sections state the different levels of landscaping and screening standards to be applied throughout the City. The locations where the landscaping or screening is required and the depth of the landscaping or screening required by this section must comply with all of the provisions of this section, unless specifically superseded in another section. The landscaping standards are generally in a hierarchical order. The landscaping standards are minimums; higher standards can be substituted as long as all fence or vegetation height limitations are met and maintained. Crime prevention and safety shall be considered when exceeding the landscaping standards (height and amount of vegetation may be an issue).

2. General Landscaping (L1).

- a. Intent. The L1 standard is a landscape treatment for open areas. It is intended to be applied in situations where distance is used as the principal means of separating uses of development, and landscaping is required to enhance the area in-between. While primarily consisting of ground cover plants, it also includes a mixture of trees, high shrubs, and low shrubs.
- b. Required Materials. The L1 standard has two different requirements for trees and shrubs. Where the area to be landscaped is less than 10 feet deep, the standard is one tree per 30 linear feet. Where the area is 10 feet deep or greater, the requirement is one tree per 800 square feet. Either two high shrubs or three low shrubs per 100 square feet of landscaped area are also required regardless of depth. The shrubs and trees may be grouped. Ground cover plants and other acceptable materials as identified in Table 1283.05-01 must fully cover the remainder of the landscaped area. Non-vegetated ground cover shall not exceed 5 % of the total area. (see Figure 1283.06-01)

Figure 1283.06-01 L1 - General Landscaping

Figure 1283.06-02 L2 - Low Screen Landscaping



3. Low Screen (L2).

- a. Intent. The L2 standard is a landscape treatment which uses a combination of distance and low level screening to separate uses of development. The standard is applied where a low level of screening is adequate to soften the impact of the use or development, or where visibility between areas is more important than a total visual screen. It is usually applied along street lot lines.
- b. Required Material. The L2 standard requires enough low shrubs to form a continuous screen three (3) feet high and 95% opaque year-round. In addition, one tree is required per thirty (30) lineal feet of landscaped area or as appropriate to provide a canopy over the landscaped area. A three-foot high berm, or a three-foot high masonry or stone wall may be substituted for the shrubs, but the trees and ground cover plants shall still be required. When applied along street lot lines, the screen, wall, or berm is to be placed along the interior side of the landscaped area. (see Figure 1283.06-02).

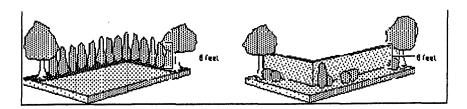
4. High Screen (L3).

a. Intent. The L3 standard is a landscape treatment which uses screening to provide the physical and visual separation between uses or development. It is used in those instances where visual separation is required.

b. Required Materials. The L3 standard requires enough high shrubs to form a screen six (6) feet high and ninety-five (95) percent opaque year-round. In addition, one tree is required every thirty (30) lineal feet of landscaped area or as appropriate to provide a tree canopy over the landscaped area. Ground cover plants and other acceptable materials as identified in Table 1283.05-01 must fully cover the remainder of the landscaped area. Non vegetated ground cover shall not exceed 5% of the total landscaped area. A six-foot high wall as outlined in L4 may be substituted for the shrubs, but the trees and ground cover plants shall still be required. When applied along street lot lines, the screen or wall is to be placed along the interior side of the landscaped area. (see Figure 1283.06-03).

Figure 1283.06-03 L3 - High Screen Landscaping

Figure 1283.06-04 L4 - High Wall Landscaping

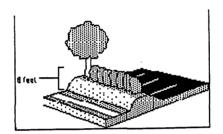


5. High Wall (L4).

- a. Intent. The L4 standard is intended to be used in special circumstances where excessive screening of both visual and noise impacts are needed to protect abutting sensitive uses in areas where there is little space for separation.
- b. Required Materials. The L4 standard requires a fence that is not less than six (6) feet tall and is not less than one hundred (100) percent opaque along the interior side of the landscaped area. Fences may be made of wood, metal, bricks, stone, masonry, vinyl or other permanent material as approved by the Director of Planning. Chain link fencing is not permitted. One tree is required per thirty (30) lineal feet of landscaped area or as appropriate to provide a tree canopy over the landscaped area. In addition, four (4) high shrubs are required per thirty (30) lineal feet of wall. Ground cover plants and other acceptable materials as identified in Table 1283.05-01 must fully cover the remainder of the landscaped area. Non vegetated ground cover shall not exceed 5% of the total landscaped area. (see Figure 1283.06-04).
- 6. High Berm $(L\bar{5})$.
 - a. Intent. The L5 standard is intended to be used in special instances where excessive screening of both visual and noise impacts is needed to protect abutting sensitive uses and where it is desirable and practical to separate by distance as well as sight-obscuring materials.

b. Required Materials. The L5 standard requires a berm between four (4) and six (6) feet high. If the berm is less than six feet high, low shrubs that meet the L2 standard shall be planted on top of the berm to assure that the overall screen is six feet high. One tree is required per thirty (30) lineal feet of landscaped area or as appropriate to provide a tree canopy over the landscaped area. Ground cover plants and other acceptable materials as identified in Table 1283.05-01 must fully cover the remainder of the landscaped area. Nonvegetated ground cover shall not exceed 5% of the total landscaped area. (see Figure 1283.06-05).

Figure 1283.06-05 L5 - High Berm Landscaping



- 7. Plant Materials General Minimum Standards and Requirements.
 - a. Shrubs and ground cover shall be of sufficient size and number to meet the required standards within three years of planting. Mulch (as ground cover) must be confined to areas underneath plants and is not a substitute for ground cover plants.

- b. Trees may be deciduous or evergreen but shall be of the type identified in Table 1283.03-02. Deciduous trees at the time of planting shall be fully branched, have a minimum diameter of 1 3/4 inches, measured 5 feet above the ground and have a minimum height of 8 feet. Evergreens at the time of planting must be fully branched and a minimum of six feet in height. White Pine trees, because of their susceptibility to damage from the application of salt to roadways, cannot be used to fill the minimum landscaping requirements along road rights of way.
- c. Plant material choices shall consider existing vegetation. Existing vegetation may be used to meet the standards, if protected and maintained during the construction phase of the development. Landscape materials should be selected and sited to produce a hardy and drought resistant landscaped area. Selection should include consideration of soil type and depth, the amount of maintenance required, spacing, exposure to sun and wind, the slope and contours of the site, and compatibility with existing native vegetation preserved on the site. The following plant materials are prohibited: purple loostrife, multiflora rose.
- d. Landscaping materials that exceed the standards may be substituted for the minimums so long as all fence and/or vegetation height limitations are met and maintained including the vision clearance standards set in subsection 14., hereof.
- e. It is the applicant's responsibility to show that the landscaping materials proposed will comply with the regulations of this chapter.

The minimum standards identified in this section may be waived upon presentation of an equivalent landscaping plan subject to the approval of the Zoning Inspector. Installation and Maintenance.

- 8. Installation and Maintenance.
 - a. Plant materials must be installed to current nursery industry standards within one year of the issuance of the occupancy permit. Plant materials must be properly supported to ensure survival. Support devices such as guy wires or stakes must not interfere with vehicular or pedestrian movement.
 - b. Maintenance of landscaped areas is the ongoing responsibility of the property owner. Required landscaping shall be continuously maintained in a healthy manner. Plants that die must be replaced in kind. A fine may be levied not to exceed twenty-five (25) dollars per day upon notice of the Zoning Inspector, until a plan for replacement is submitted subject to approval by the Zoning Inspector, if the landscaping has not been maintained, and new plants are required to be planted.
 - c. Irrigation shall be provided to ensure that plants will survive the critical establishment period when they are most vulnerable due to lack of watering. All landscaped areas shall provide a system which provides sufficient water to ensure that the plants will become established. The system is not required to be permanent if the plants chosen can survive adequately on their own once established.
 - d. Protection shall be provided for all landscaped areas, particularly trees and shrubs, from potential damage by adjacent development, including parking or storage area.

- 9. Landscaped Areas and Corner Lots. All landscaped areas on corner lots shall meet the vision requirements in subsection 14., hereof. If high shrubs or sight-obscuring screening is required by this section, low screening shall be substituted within vision clearance areas.
- 10. Landscape Plans. Landscape plans shall be submitted prior to final plat approval. Each landscape plan shall indicate all landscape areas. Plans shall be drawn to scale and show the type, size, number, and placement of materials. Materials shall be identified with both their scientific and common names. Any required irrigation system shall also be shown or identified in writing.
- 11. Completion of Landscaping. The installation of any required landscaping may be deferred during the summer or winter months to the next planting season upon written request and subsequent approval by the Zoning Inspector. Such approval shall not exceed six (6) months. In this instance, a Temporary Certificate of Occupancy may be issued prior to the installation of all required landscaping. In all instances, all required landscaping shall be installed prior to the issuance of a Final Certificate of Occupancy.
- 12. Street Trees. Street trees are subject to the regulations of Section 1283.05 and shall not be counted toward any landscaping required by this section.
- 13. Landscaping for Trash or Waste Disposal Unit.
 - a. Any trash or waste disposal unit shall be screened whenever located in any multi-family, office/institutional, local business, highway business, or general business zone when located on property abutting any residential zone, minor collector, major collector, or arterial collector.
 - A continuous planting, hedge, fence, or wall of earth with an b. opacity of one hundred percent (100%) shall be required to effectively screen any trash or waste disposal unit on four sides with provisions for access by gate on one side. The average height of the screening material shall be one foot more than the height of the enclosed structure, but shall not be required to exceed ten feet in height. Whenever an accessory building is located next to a wall, perimeter landscaping material, or vehicular use area, such walls or screening material may fulfill the screening requirement for that side of the accessory building if that wall or screening material is of an average height sufficient to meet the height requirement outlined in this section. Whenever accessory buildings are screened by plant material, such material may count towards the fulfillment of required interior perimeter landscaping. No landscaping shall be required within an area screened for accessory buildings.
 - c. Whenever screening material is placed around any trash disposal unit or waste collection unit which is emptied or removed mechanically or on a regularly occurring basis, a curb to contain the placement of the container shall be provided within the screening material on those sides where there is such material. The curbing shall be designed to prevent possible damage to the screening when the container is moved or emptied.
- 14. Landscaping at Driveway and Street Intersections. A "sight triangle" shall be observed for all street intersections or intersections of driveways and streets, as described in Section 1221.03, to ensure that landscape materials do not constitute a vehicular or pedestrian hazard.

15. Screening of Mechanical Equipment In Commercial or Industrial Zoning Districts. Mechanical equipment, such as heating or cooling equipment, pumps, or generators, located on the ground in commercial or industrial zoning districts must be screened from the street and from any abutting residential zones or uses by walls, fences, or vegetation tall enough to screen the equipment. Mechanical equipment on roofs must be screened from the ground level of any abutting residential zones or uses. (Ord. 2005-3600. Passed 3-21-05.)

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1283.07 APPLICATION OF LANDSCAPING STANDARDS.

- A. Purpose. Landscaping is required to help soften the effects of built and paved areas. It also helps to reduce stormwater runoff by providing a permeable surface into which stormwater can percolate. Up to one-third of the landscaped area may be improved for active or passive recreational use, or for use by pedestrians (e.g., placement of sidewalks or bike paths).
- B. Landscaping Standards for Individual Lots. The following landscaping standards apply to each individual lot or parcel. See subsection C. hereof for standards that apply to frontage along rights-of-way for any subdivision development.

Zoning District	Front Yard	Side Yard	Rear Yard
AG Agricultural	None	None	None
R-87 Medium-Low Density Residential (applies only to conditionally permitted uses 2-5)	L2	L1	L1
R-20 Medium Density Residential (applies only to conditionally permitted uses 2-6)	L2	L2	L2
R-15 Medium-High Density Residential (applies only to conditionally permitted uses 2-6)	L2	L2	L2
R-10 High Density Residential (applies only to permitted use 2 and conditionally permitted uses 2-5)	L2	L2; L3 or L4 if abutting a residential use	L2; L3 or L4 if abutting a residential use
R-7 Village Single Family Residential (applies only to permitted use 2 and conditionally permitted uses 2-5)	L2	L3 or L4 if abutting a residential use	L3 or L4 if abutting a residential use

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R-M Multi-Family Residential (applies to all except permitted uses 3 and 4)	L2	L3 or L4 if abutting a lower density residential use	L3 or L4 if abutting a lower density residential use
R-MH Manufactured Home Residential (applies to all except permitted uses 3-5)	L2	L3 or L5 if abutting a lower density residential use	L3 or L4 if abutting a lower density residential use
PRO Professional- Research-Office (applies to all uses)	L2	L2; L3 or L5 if abutting a residential use	L2; L3 or L5 if abutting a residential use
DB Downtown Business (applies to all uses)	L2	L2; L3 or L4 if abutting a residential use	L2, L3 or L4 if abutting a residential use
LB Local Business (applies to all uses)	L2	L3 or L4 if abutting a residential use	L3 or L4 if abutting a residential use
GB General Business (applies to all uses)	L2	L3 or L4 if abutting a residential use	L3 or L4 if abutting a residential use
M-1 Light Manufacturing (applies to all uses except permitted use 1)	L2	L2 if abutting a similar use; L5 if abutting a residential use or district; L3 if abutting any district other than residential	L2 if abutting a similar use; L5 if abutting a residential use or district; L3 if abutting any district other than residential
PM Planned Manufacturing (applies to all uses except permitted uses 1 and 3)	L2	L2 if abutting a similar use; L5 if abutting a residential use or district; L3 if abutting any district other than residential	L2 if abutting a similar use; L5 if abutting a residential use or district; L3 if abutting any district other than residential

C. Landscaping Standards for Developments With Frontage on Public Rights-of-Way.

All subdivision developments shall conform to the following landscaping standard along the frontage of any adjacent public rights-of-way.

Development Type	Minimum Landscaped Distance Perpendicular from Public Right of Way or Lot Line Interface	Landscape Standard
Residential Subdivision	60 Feet	L5, or existing wooded areas subject to approval by City Council
Commercial or Professional	40 Feet	L2, or existing wooded areas subject to approval by City Council
Manufacturing or Industrial	60 Feet	L5, or existing wooded areas subject to approval by City Council

CHAPTER 1285 Nonconforming Uses and Structures

1285.01 1285.02 1285.03	Intent. Status of nonconformities. Substitution.	1285.07	Damage and/or destruction of a nonconforming building or use.
1285.04	Existing nonconforming uses.	1285.08	Maintenance and repair.
1285.05	Single nonconforming lots of	1285.09	Nonconforming certificate.
	record.	1285.10	Uses under conditional use
1285.06	Nonconforming use of		provisions not nonconforming
	structures or structures and		uses.
	land in combination.		

CROSS REFERENCES

Nonconforming uses - see Ohio R.C. 713.15 Nonconformities defined - see P. & Z. 1203.03 Nonconforming signs - see P. & Z. 1295.09

1285.01 INTENT.

Within the districts established by this Code or amendments that may later be adopted there exists lots, uses of land, structures, and uses of structures and land in combination which were lawful before this Code was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Code or future amendments. It is the intent of this Code that nonconformities shall not be enlarged upon, expanded upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district, except as permitted in Section 1285.06A.6.

1285.02 STATUS OF NONCONFORMITIES.

Nonconformities are declared by this Code to be incompatible with permitted uses in the districts in which such use is located. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this Code by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located, except as permitted in Sections 1285.06A.6. and 1285.08.

1285.03 SUBSTITUTION.

The Planning and Zoning Commission may allow the nonconforming use of a building or structure to be changed to another nonconforming use of the same or more restricted classification, provided no structural alterations, except those required by law or ordinance are made. However in an "R" district, no change shall be authorized by the Planning and Zoning Commission to any use which is not a permitted or conditional use in any "R" district, and in a nonresidential district, no change shall be authorized to any use which is not a permitted or conditional use in the district.

1285.04 EXISTING NONCONFORMING USES.

- A. Continuation. Except as hereinafter specified, the lawful use of a building or premises existing at the time of the adoption or amendment of this Code, may be continued, although such use, building or structure does not conform with the provisions of this Code for the district in which it is located.
- B. Construction Commenced. Any property purchased or acquired in good faith for any nonconforming use prior to the adoption of this Code, upon which property the work of changing, remodeling or construction of such nonconforming use has been legally commenced at the time of adoption of this Code, may be used for the nonconforming use for which such changing, remodeling or construction was undertaken, provided that such work is completed within two (2) years from the date of adoption of this Code or amendment thereto making said use nonconforming.

1285.05 SINGLE NONCONFORMING LOTS OF RECORD.

In any district in which a structure/use is permitted, a structure and customary accessory buildings may be erected or permitted on any single nonconforming lot of record at the effective date of adoption or amendment of this Code, notwithstanding limitations imposed by other provisions of this Code including minimum lot sizes and square foot requirements. This provision shall apply even though such lot fails to meet the requirements for area or width, or both for the district in which lot is located. Variances of requirements listed in Titles Three and Five of this Planning and Zoning Code other than lot area or lot width shall be obtained through action of the Board of Zoning Appeals as provided in Sections 1211.02 through 1211.12.

- A. If any owner of such lot does not own adjoining property and did not own such property at the time of this Code becoming effective:
 - In any district where dwellings are permitted, two (2) inches may be deducted from the required minimum width of each side yard and four (4) inches from the required sum of minimum widths of both side yards for each foot that the lot is narrower than the required width in the district. In no case, however, shall side yard be narrower than five (5) feet.
 - 2. For the lots having a depth of less than 110 feet, the depth of the rear yard need not exceed 25 percent of the total depth of the lot, but shall not be less than 20 feet.
- B. If the owner of such lot owns adjoining property, or owned such property at the time this Code became effective, the modification of lot area and yard dimensions set forth hereinbefore shall not apply except as set forth hereinafter. In order to erect a structure or structures thereon, the owner of two (2) or more adjacent lots fronting on the same street shall redivide such lots in such a manner that they conform with the lot area and yard requirements for a single family structure by more than 30 feet; such re-division, if any, may be made as to provide one (1) more building lot than otherwise would be permitted. In such a case, the provisions of subsection A. hereof, relating to reduction of side yard width and rear yard width shall apply. (Ord. 2006-3733. Passed 12-18-06.)

1285.06 NONCONFORMING USE OF STRUCTURES OR STRUCTURES AND LAND IN COMBINATION.

A. If a lawful use involving structures, or of a structure and land in combination, exists at the effective date of adoption or amendment of this Code that would not be allowed in the district under the terms of this Code, the lawful use may be continued so long as it is otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Code in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in which it is located.

2. Any nonconforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Code, but no such use shall be

extended to occupy land outside such building.

3. If no structural changes are made, any nonconforming use of a structure or structure and land, may, upon approval by the Board of Zoning Appeals, be changed to a more restrictive nonconforming use provided that the Board shall find that the proposed use is more appropriate to the district than the existing nonconforming use, that the proposed use will not have a greater impact on the neighborhood, and that it will not prolong the natural life of a nonconforming use (i.e. costly improvements are indicators that the natural life of the nonconforming use will be extended). In permitting such change, the Board may require appropriate conditions and safeguards in accord with other provisions of this Code.

4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not

thereafter be resumed.

5. A nonconforming use which has been discontinued or abandoned shall not thereafter be returned to a nonconforming use. A nonconforming use shall be considered abandoned whenever any of the following conditions exist:

1. When the use has been voluntarily discontinued for a period of two

(2) years.

2. When the nonconforming use has been replaced by a conforming use.

6. The Board of Zoning Appeals may permit, on a once only basis, a building containing a nonconforming use to be enlarged to an extent not exceeding ten percent (10%) of the ground floor area of the existing building or structure devoted to a nonconforming use at the time of adoption or amendment of this Code, making the use nonconforming. The Board shall not authorize any enlargement which would result in a violation of the provisions with respect to any adjoining premises, or would occupy ground space required for meeting the yard or other requirements of this Code.

7. No nonconforming building or structure shall be moved in whole or part to any other location unless such building or structure and the yard and other space provided are made to conform to all the regulations of the district in which building or structure is relocated.

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8. Any residential structure which is nonconforming due to a fact of its being in a non-residential zoning district may be enlarged, extended, reconstructed or structurally altered provided it meets the requirements of the adjacent or most proximate "R" district to be determined by the Zoning Inspector.

1285.07 DAMAGE AND/OR DESTRUCTION OF A NONCONFORMING BUILDING OR USE.

When a building or structure, the use of which does not conform to the provisions of this Code, is damaged by fire, explosion, Act of God or the public enemy, it may be restored or rebuilt and continued in such nonconforming use, provided that the restoration or rebuilding is commenced within twelve (12) months of the time of damage, and that such restoration or rebuilding would not extend or expand the existing use. If a period of twelve (12) months has expired, from the time of damage, and construction has not been commenced then the nonconforming use shall no longer be permitted, and the certificate of nonconformance shall be revoked.

1285.08 MAINTENANCE AND REPAIR.

- A. Nothing in this chapter shall be deemed to prevent normal maintenance and repair of a building or structure containing a nonconforming use. Structural alterations may be made to a building or structure containing a nonconforming use as follows:
 - 1. When required by law.
 - 2. To convert to a conforming use.
 - 3. A building or structure containing any residential nonconforming uses may be so altered as to improve interior livability. However, the exterior of any residential structure which is nonconforming due to a fact of its being in a non-residential zoning district may be enlarged, extended, reconstructed or structurally altered provided it meets the requirements of the adjacent or most proximate "R" district to be determined by the Zoning Inspector.

1285.09 NONCONFORMING CERTIFICATE.

The Zoning Inspector may upon his own initiative, or may upon request of the property owner, issue a certificate for any lot, structure, use of land, use of structure, or use of land and structure in combination that certifies that the lot, structure, or use is nonconforming.

The certificate shall specify the reason for the nonconformity, including a description as to the extent and kind of nonconformity of the property in question, the extent that the dimensional requirements are nonconforming, and the portion of the lot and/or structure used in nonconforming use.

The purpose of this section is to protect the owners of land or structures that are or become nonconforming by certifying that their land and/or use is, in fact, nonconforming. Once certified, the owner is entitled to rights and regulations as defined in the Ohio Revised Code. There may be properties and/or uses that are nonconforming, whose owners do not have certificates. A fee may be charged for the certificate as determined by the City Council.

One copy of the certificate shall be returned to the owner and one copy shall retained by the Zoning Clerk, who shall maintain a file of all such certificates as a public record.

1285.10 USES UNDER CONDITIONAL USE PROVISIONS NOT NONCONFORMING USES.

Any pre-existing conditional use in a district prior to any change in the Zoning Code which would affect the status of the conditional use shall not be considered a non-conforming use. The conditional use shall continue to be considered a conforming use

CHAPTER 1287 Off-Site Impacts

1287.01	Purpose.	1287.09	Glare.
1287.02	Applying these regulations.	1287.10	Fire hazard.
1287.03	Transitional period	1287.11	Electromagnetic radiation
	exemptions.		disturbance.
1287.04	Relationship to other	1287.12	Erosion.
	regulations.	1287.13	Water pollution.
1287.05	Noise.	1287.14	Measurements.
1287.06	Vibration.	1287.15	Documentation in advance.
1287.07	Odor.	1287.99	Penalty.
1287.08	Air pollution.		•

CROSS REFERENCES General nuisance provisions - see GEN. OFF. Ch. 521

1287.01 PURPOSE.

The regulations of this chapter are designed to protect uses in all districts from certain objectionable off-site impacts. These impacts include noise, vibration, odors, and glare. The standards ensure that uses provide adequate control measures or locate in areas where the community is protected from health hazards and nuisances. The use of objective standards provides a measurable means of determining specified off-site impacts. This method protects specific industries or firms from exclusion in a district based solely on the general characteristics of similar industries in the past. (Ord. 2020-4359. Passed 3-16-20.)

1287.02 APPLYING THESE REGULATIONS.

Uses in all districts which cause off-site impacts, including non-conforming uses, are required to meet the standards of this chapter. Transition for existing equipment and facilities is stated in Section 1287.03 below. (Ord. 2020-4359. Passed 3-16-20.)

1287.03 TRANSITIONAL PERIOD EXEMPTIONS.

All existing non-conforming machinery, equipment, facilities and uses shall conform to these standards within one year of the effective date of this Code. An extension of up to six months may be granted by the Commission if the owner or operator of the use can demonstrate in writing that compliance would create an unreasonable hardship. Any new or additional machinery, equipment, facilities, and uses must comply with the standards of this chapter. Documentation is the responsibility of the proprietor of the use if there is any question about when the equipment was brought to the site. (Ord. 2020-4359. Passed 3-16-20.)

1287.04 RELATIONSHIP TO OTHER REGULATIONS.

The off-site impact standards are in addition to all other City regulations. The standards do not replace, and may be more stringent than, regulations of the state and/or federal Environmental Protection Agency, relevant county regulations, or standards such as the Uniform Fire Code. The most stringent regulations shall apply in the event of conflict between regulations. Methods and procedures for the determination of the existence of any elements which are dangerous or create a nuisance shall conform to applicable standard measurement procedure published by the American National Standards Institute, Inc., New York, Chemical Manufacturers' Association, Washington, D.C., the United States Bureau of Mines, and the Ohio Environmental Protection Agency. (Ord. 2020-4359. Passed 3-16-20.)

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1287.05 NOISE.

- (a) <u>Noise standard.</u> Continuous, frequent, or repetitive noise which exceeds 60 dBA (decibels) may not be produced. Noise from external speakers shall not be audible by an occupant of an adjacent property at the property line nearest the source of the speaker noise.
- (b) <u>Exceptions.</u> Noise from temporary construction is exempt. Noise from vehicles which leave the site (such as trucks, trains, airplanes and helicopters) is exempt. Air-raid sirens and related apparatus used solely for public purposes are exempt. Noise lasting less than five minutes per day is also exempt. Noise from primarily on-site vehicles and equipment is not exempt. (Ord. 2020-4359. Passed 3-16-20.)

1287.06 VIBRATION.

- (a) <u>Vibration Standard.</u> Continuous, frequent, or repetitive vibrations which exceed 0.002g peak may not be produced. In general, this means that a person of normal sensitivities should not be able to feel any vibrations.
- (b) <u>Exceptions.</u> Vibrations from temporary construction are exempt. Vibrations from vehicles which leave the site (such as trucks, trains, airplanes and helicopters) are exempt. Vibrations lasting less than five minutes per day are also exempt. Vibrations from primarily on-site vehicles and equipment are not exempt.
- (c) <u>Measurement.</u> Seismic or electronic vibration measuring equipment may be used for measurements when there are doubts about the level of vibration. (Ord. 2020-4359. Passed 3-16-20.)

1287.07 ODOR.

- (a) Odor Standard. Continuous, frequent, or repetitive odors may not be produced which exceed scentometer No. 0. The odor threshold is the point at which an odor may just be detected. The scentometer reading is based on the number of clean air dilutions required to reduce the odorous air to the threshold level. Scentometer No. 0 is 1 to 2 dilutions of clean air.
- (b) <u>Exception.</u> An odor detected for less than fifteen minutes per day is exempt. (Ord. 2020-4359. Passed 3-16-20.)

1287.08 AIR POLLUTION.

Air Pollution Regulation. Air pollution shall be subject to the requirements and regulations established by the Director of the Ohio Environmental Protection Agency and/or the Administrator of the US Environmental Protection Agency. (Ord. 2020-4359. Passed 3-16-20.)

1287.09 GLARE.

- (a) <u>Glare standard.</u> Glare is illumination caused by all types of lighting or from high temperature processes such as welding or metallurgical refining. Glare may not directly, or indirectly from reflection, cause illumination on other properties in excess of a measurement of 0.5 foot candles of light.
- (b) <u>Strobe lights.</u> Strobe lights visible from another property are not allowed. (Ord. 2020-4359. Passed 3-16-20.)

1287.10 FIRE HAZARD.

Fire Hazard standard. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire-prevention equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger and shall meet all requirements of the State of Ohio Fire Marshal. (Ord. 2020-4359. Passed 3-16-20.)

1287.11 ELECTROMAGNETIC RADIATION DISTURBANCE.

Electromagnetic Radiation Disturbance Standard. No activity shall emit dangerous electromagnetic radiation beyond the site which adversely affects health or the operation of any equipment at any point other than that of the creator of such disturbance. (Ord. 2020-4359. Passed 3-16-20.)

1287.12 EROSION.

Erosion standard. No erosion, by either wind or water, shall be permitted which will carry objectionable substances onto neighboring properties. All requirements as outlined in Chapter 1283, in the Pataskala Subdivision Regulations, and/or all State laws pertaining to erosion control must be adhered to. (Ord. 2020-4359. Passed 3-16-20.)

1287.13 WATER POLLUTION.

Water Pollution standard. Water pollution shall be subject to the requirements and regulations established by the Director of the Ohio Environmental Protection Agency, the Administrator of the US Environmental Protection Agency, the Army Corps of Engineers, as well as those outlined in the State of Ohio's Wellhead Protection Guidelines. (Ord. 2020-4359. Passed 3-16-20.)

1287.14 MEASUREMENTS.

(a) Measurements for compliance with these standards are made from the property line or within the property of the affected site. Measurements may be made at ground level or at habitable levels of buildings.

(b) If the City does not have the equipment or expertise to measure and evaluate a specific complaint, it may request assistance from another agency or may contract with an independent expert to perform such measurements. The City may accept measurements made by an independent expert hired by the controller or operator of the off-site impact source. If the City contracts to have measurements made and no violation is found, the City will bear the expense, if any, of the measurements. If a violation is found, City expenses will be charged to the violator. Nonpayment of the costs is a violation of the Code. (Ord. 2020-4359. Passed 3-16-20.)

1287.15 DOCUMENTATION IN ADVANCE.

The Zoning Inspector may require submission of documentation in advance that a proposed use will conform with these standards; in these situations, all of the following additional information is required of the applicant prior to issuing a zoning permit:

- (a) <u>Use Description.</u> A description of the use or activity regarding processes, materials used, storage, waste disposal, types of machinery and other such items as it relates to off-site impacts. However, the applicant is not required to reveal any trade secrets which would cause any secret manufacturing procedure, compound or product to become public knowledge and available to competitors;
- (b) Abatement Devices. An explanation of any mechanisms or techniques which are proposed to restrict any hazardous or nuisance effects, including the type and location of any abatement devices and/or recording instruments to measure conformance with the required standard; and
- (c) <u>Expert Evaluation</u>. An evaluation and explanation certified by a registered engineer or architect, as appropriate, that the proposed activity can achieve the off-site impact standard or standards in question. (Ord. 2020-4359. Passed 3-16-20.)

1287.99 PENALTY.

Whoever violates any provision of this chapter shall be subject to the penalties in Section 1209.99 of the Pataskala Code of Ordinances. (Ord. 2020-4359. Passed 3-16-20.)

CHAPTER 1289 Oil and Gas Well Regulations

1289.01	Purpose.	1289.04	Development regulations.
1289.02	Regulations.		Inspections.
1289.03	Required documentation.		•

CROSS REFERENCES

State law provisions - see Ohio R.C. Ch. 1509 Oil and gas well drilling - see OAC Ch. 1501:1, 1501:9

1289.01 PURPOSE.

Portions of the City are known to be the location of gas and oil reserves. This chapter sets forth requirements to ensure that any operation incidental to exploration, production, or storage of gas and oil takes place in a manner not endangering public health, safety, and welfare.

1289.02 REGULATIONS.

The most stringent regulations shall apply in the event of conflict between these regulations and state law, adopted pursuant to Ohio R.C. Chapter 1509, the Ohio Administrative Code, and applicable Federal regulations.

1289.03 REQUIRED DOCUMENTATION.

- A. Not less than seven days prior to any drilling operation, the driller shall file with the Zoning Inspector:
 - 1. A plat, drawn to scale, showing:
 - a. Ingress and egress points.
 - b. The well location.
 - c. The location of all known wells (e.g., water, oil, gas) within 1,000 feet.
 - d. Storage tanks.
 - e. Separators.
 - f. Power shutoffs.
 - g. Transmission lines.
 - h. Oil flow shutoffs.
 - i. Permanent and temporary pits.
 - j. Access roads.
 - k. All dikes and swales for erosion control and spill prevention.

- 2. A list of emergency telephone numbers.
- 3. A copy of the state permit.
- 4. A copy of the brine and waste disposal plan (to include handling of brine, frac-water, sludge, and any other oil field wastes).
- 5. A copy of the Spill Prevention, Control and Countermeasure Plan (SPCC) as required by Title 40 Code of Federal Regulations, Part 112.
- 6. A schedule of the proposed drilling operation.
- 7. A statement of liability coverage for all operations related to drilling, production, storage and transmission of all products, byproducts, and wastes.

1289.04 DEVELOPMENT REGULATIONS.

- A. The following regulations shall apply for the development of all oil and gas wells:
 - 1. No gas nor oil well, storage tank, nor separator unit shall be placed closer than 100 feet to any public highway, public building, or private residence.
 - 2. No equipment shall be placed within 50 feet of a property line unless both properties are part of the same drilling unit. In no case shall any equipment be placed directly on the property line.
 - 3. All permanent production facilities shall be enclosed by a chain-linked fence not less than six feet in height.
 - 4. All shut-off valves shall be painted a conspicuous color for ease of identification in emergencies.
 - 5. All gas and oil lines shall be buried at a minimum depth of 30 inches.
 - 6. Prior to drilling, all access roads shall be of sufficient width and paved with slag, gravel, crushed stone, or other suitable material to permit all weather access by emergency vehicles. All access roads shall have a paved turnaround of sufficient size for the largest firefighting equipment used by the City.
 - 7. All gates, storage tank manholes, discharge valves, fill valves, shutoff valves, and fence gates shall be locked. All locks at a given well shall utilize a master key. Master keys marked with the well number shall be provided to the Zoning Inspector, Fire Chief, and City Police Chief.
 - 8. At all times a sign shall be posted on site showing:
 - a. Access street name, number, or both.
 - b. Owner.
 - c. Lease name.
 - d. State permit number.
 - e. All emergency telephone numbers.
 - 9. All truck loading and parking areas shall be located outside of any road right-of-way.
 - 10. All gas and oil production and storage equipment and brine storage shall be diked to prevent contamination of surface or ground water. The dikes shall be liquid tight. All diked areas shall have at least two layers of lining materials, separated by a minimum two inch compacted clay layer. The layers shall be laid in opposite directions to assure their integrity. Dikes surrounding storage facilities shall have a capacity three times that of the storage vessel.
 - In locations where dikes may be damaged by storm runoff, a diversionary dike or swale shall be constructed to prevent damage to the containment dikes.

- 12. If during construction of any temporary or permanent pit or containment dike, a subsurface drainage system is encountered, said subsurface drainage system shall be removed to a distance of 20 feet from the pit, or containment dike, and on the outflow side shall be plugged at that point. The inflow side shall be rerouted to prevent ponding.
- 13. If a well is located on a steep slope, only tanks shall be used, not open storage pits. All tanks shall be adequately and permanently anchored to resist slippage or flotation. All tanks shall be liquid tight.
- 14. No person shall conduct any well drilling, production or transmission operation that contaminates or pollutes the land surface or any surface or subsurface water. No saltwater (brine), sludge, frac-water or any other oil field wastes shall be deposited or discharged in the City for any purpose, except into an authorized state-permitted injection well. No person shall vary or change the waste disposal plan or method initially submitted without prior approval of the Zoning Inspector.
- The owner and/or operator of all transmission lines shall provide the Zoning Inspector with a plat drawn to scale of all transmission lines within 1,000 feet of the well. All transmission lines, buried or above ground, shall be marked with permanent markers at 100-foot intervals. All lines crossing public highways shall be marked with permanent markers at each side of the right-of-way.
- Oil and gas wells, and related production and storage equipment, shall not be located in the 100-year floodway.

1289.05 INSPECTIONS.

The Zoning Inspector may inspect oil and gas wells and storage facilities at any time to ensure compliance with local regulations.

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CHAPTER 1291 Parking and Loading

1291.01	Purpose.	1291.12	Perimeter screening and/or
1291.02	General requirements.		landscaping.
1291.03	Lighting.	1291.13	Interior screening and/or
1291.04	Striping.		landscaping.
1291.05	Location of parking and loading	1291.14	Minimum distance and setback
	spaces.	1291.15	Width of access driveway.
1291.06	Off-site parking conditions.	1291.16	Required number of off-street
1291.07	Parking spaces for people with		parking spaces.
	disabilities.	1291.17	Provision of parking spaces in
1291.08	Shared parking arrangements.		the DB District.
1291.09	Disabled vehicles.	1291.18	Required number of off-street
1291.10	Limitation of parking in		loading spaces.
	Residential Districts.		- · · · · · · · · · · · · · · · · · · ·
1291.11	Parking and loading space		
-	dimensions.		

CROSS REFERENCES On-street parking - see TRAF. Ch. 351 Parking definitions - see P. & Z. 1203.03

1291.01 PURPOSE.

The purpose of these requirements for off-street parking and loading facilities is to encourage the orderly development of land within the City and to promote the safety of residents and visitors by ensuring the efficient handling of vehicular traffic.

1291.02 GENERAL REQUIREMENTS.

A. The following general requirements shall apply for all parking and loading areas:

No building structure or use shall be established, developed, erected or

No building, structure, or use shall be established, developed, erected or substantially altered, unless permanently maintained off-street parking and loading spaces have been provided in accordance with the provisions of this Code. The provisions of this chapter, except where there is a change of use, shall not apply to any existing building or structure. Furthermore, single-family residential lots located outside of platted subdivisions are exempt from this section of the Code. Where the new use involves no additions or enlargements, there shall be provided as many of such spaces as may be required by this Code.

- 2. Whenever a building or structure constructed after the effective date of this Code is changed or enlarged in floor area, number of dwelling units, capacity, or otherwise to create a need for an increase in the number of existing parking spaces, additional parking spaces shall be provided on the basis of the enlargement or change. Whenever a building, structure, or use existing prior to the effective date of this Code is increased to the extent of 50% or more such as in floor area, number of employees, number of housing units, seating capacity, of change in use, said building or structure shall then and thereafter comply with the full parking requirements set forth
- 3. All off-street parking and loading areas provided in accordance with this chapter shall have direct access to a public or private street or alley. Any parking area shall be designed in such a manner that any vehicle leaving or entering the parking area from or into a public or private street shall be traveling in a forward motion. Access driveways for parking areas or loading spaces shall be located in such a way that any vehicle entering or leaving such area shall be clearly visible for a reasonable distance to any pedestrian or motorist approaching the access or driveway from a public or private street.
- 4. All off-street parking shall be hard-surfaced with asphaltic cement, concrete, pavers to provide a durable and dust-free surface that meets the minimum requirements and specifications of the City Engineer.
- 5. All off-street parking shall be graded and maintained so that water does not unreasonably accumulate on such areas nor flow or drain onto an adjacent public or private property. All such surfaced areas shall be maintained free of pot holes, litter, glass, nails or other dangerous materials.
- 6. In the interpretation of this chapter, the following rules shall govern:
 - a. Parking spaces for other permitted or conditional uses not listed in this chapter shall be determined by the Board of Zoning Appeals upon an appeal from a decision of the Zoning Inspector.
 - b. Fractional numbers shall be increased to the next whole number when calculating the number of required spaces.
 - c. Where there is an adequate public transit system or where for any other reason parking demand is unusually low, then the parking space provisions cited above may be reduced proportionately by the Board of Zoning Appeals upon an appeal from a decision of the Zoning Inspector.
- 7. A curbed landscaped island, a minimum 6 feet in width, shall separate parking areas within a site from any entrance or exit to the parking lot. This requirement shall not be deemed to require the obstruction of adequate street sight distance at any entrance or intersection.
- 8. Pedestrian walkways and bicycle paths shall be incorporated into parking lot design in order to provide a physical separation of vehicular and pedestrian or bicycle access in a safe and convenient manner.

1291.03 LIGHTING.

Any nonresidential parking area with ten or more off-street parking spaces and any residential parking area with 20 or more off-street parking spaces shall be illuminated during periods of darkness to provide an average intensity of 1/2 foot candles of light as measured at the parking surface area. All outdoor lighting shall be constant intensity, and shall be directed, reflected, or shielded so as not to be of excessive brightness or cause glare hazardous to pedestrians or drivers, create a nuisance or unreasonably interfere with a neighboring property owner's right to enjoy his/her property. All lighting shall be subject to the approval of the Zoning Inspector.

1291.04 STRIPING.

Any nonresidential parking area with ten or more off-street parking spaces and any residential parking area with 20 or more off-street parking spaces shall be arranged and marked to provide for orderly and safe loading, unloading, parking, and storage of vehicles. Individual parking spaces shall be clearly defined by painted striping with a minimum width of 4 inches, and directional arrows, special markings (e.g., pedestrian cross walk and handicapped space designations), and traffic signs provided for safe and convenient traffic flow. Each space or area for handicapped or other special parking shall be clearly marked to indicate the intended use, and shall be located to facilitate its use. All markings and traffic signs shall be maintained perpetually by the property owner or their assignee. Whenever an existing parking lot extends to a property line or where the extension of a vehicle beyond the front line of the parking space would interfere with drive or aisle access, wheel blocks or other devices shall be used to restrict such extension.

1291.05 LOCATION OF PARKING AND LOADING SPACES.

A. Proximity to Street Right-of-way.

1. For single-family and two-family residential uses, no off-street parking space, or portion thereof, shall be located closer than 10 feet to any established street right-of-way. Each residential driveway shall be at least 10 feet in width from the curb to the nearest portion of the garage. However, the following exceptions are permitted. Such driveway, if connecting to an arterial or collector road, shall allow for sufficient area for parking and turn around ability outside of the right-of-way.

2. For multiple-family residential uses, no off-street parking space, or portion thereof, shall be located closer than 60 feet to any established street right-of-way for major arterials, minor arterials, major collectors and minor collectors and shall be located such that the parking is located on one or each end of the multiple-family residential uses. For new roadways, other than those listed above, no off-street parking space, or portion thereof, shall be located closer than 40 feet to any established street right-of-way. (Ord. 2002-3432. Passed 5-6-02.)

3. For uses in the Downtown Business zoning district, no off-street parking space or portion thereof shall be located closer than 10 feet to any established street right-of-way (landscaped to the L1 standard identified

in Chapter 1283).

4. For all other uses, a 40 foot vegetated zone (landscaped to the L2 standard identified in Chapter 1283) shall be maintained between the street right-of-way-line, and any parking or loading area exclusive of ingress and egress points. All access drives shall be arranged such that each access drive, exclusive of curb returns, shall be a minimum of ten feet from the side lot line and a minimum of twenty feet from any adjacent access drive. All access drives shall, where warranted and practical, be placed directly across from any other existing access drive.

- B. Proximity to Use.
 - 1. In the AG, R, and M Districts, required parking and loading spaces shall be provided on the same lot as the principal use which they serve.
 - 2. In the PRO and GB Districts, required parking and loading spaces shall be provided either on the same lot, or within 100 feet of the principal use which they serve, or as provided in Section 1291.06.
 - 3. In the LB or DB District, required parking spaces may be located within 300 feet of the use they serve, or as provided in Section 1291.06.

1291.06 OFF-SITE PARKING CONDITIONS.

A. All off-street parking spaces shall be located on the same lot as the structure or use, except under all of the following conditions:

- 1. The use must supply at least fifty percent of its required spaces on-site. City Council, after Commission review and recommendation, may grant an exception to this requirement under the following criteria: (1) proximity of the proposed parking area to the use served, (2) ease and safety of access between the proposed parking area and the use served, (3) the hours of operation of the use to be served by the off-site parking.
- 2. Off-site spaces shall be within 800 feet walking distance of a building entrance or use. If the pedestrian access is to cross an arterial street, appropriate safety measures must be present to assist the pedestrian to cross the street. In any event, safe and convenient pedestrian access, such as a sidewalk or path, must exist or be provided from the structure or use to the parking area by the property owner(s).
- 3. Contiguous lots providing off-street parking for more than one use shall provide sufficient spaces to comply with the parking requirements for all uses.
- 4. The off-site lot may be located in a different zoning district than the structure or use it serves if a parking facility is permitted by right or by conditional use permit in the different zoning district.
- 5. A written agreement through a lease or permanent easement, stating the terms under which the proposed parking shall be developed and maintained, shall be filed with the application for a zoning permit. Such agreement shall be reviewed to ensure compliance with this Code by the City Law Director and Zoning Inspector prior to issuance of a zoning permit.
- No changes shall be made to the off-site parking lot which would reduce the parking provided for the use, unless other arrangements to provide parking are made by the owner of the use.
- 7. All required handicapped parking spaces for a use must be located on-site.
- 8. All required loading spaces must be located on-site.
- 9. An existing non-conforming parking lot to be used as off-site parking must be landscaped, paved, and striped according to the standards of this section and the Zoning Code.

1291.07 PARKING SPACES FOR PEOPLE WITH DISABILITIES.

A. All newly developed or substantially altered parking spaces designated for people with disabilities shall be in compliance with the universal parking space design set forth in the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities.

- B. The number and location of the designated space shall be in compliance with the requirements of such Americans with Disabilities Act Accessibility Guidelines. Such accessible spaces shall have the minimum dimensions of 11 feet wide and 19 feet deep, with a 5 foot wide access aisle on one side. This access aisle shall also be connected to an accessible route to the appropriate accessible entrance of a building or facility. This access aisle shall have a slope of 1:50 maximum in all directions and shall either blend with the accessible route or have an adjoining entrance ramp with a minimum width of 3 feet and a slope not to exceed 1:20.
 - C. 1. All such spaces shall be designated by signs consistent with the standard styles of the 2005 Ohio Manual of Uniform Traffic Control Devices, type R7-8, or as_consistent with the most current edition of the Ohio Manual of Uniform Traffic Control Devices.
 - 2. Where parking spaces that are reserved for persons with disabilities are designated to accommodate wheelchair vans, a VAN ACCESSIBLE, R7-8a, plaque should be mounted below the R7-8 sign.



- 3. Such signs shall be emblazoned with the "international symbol of accessibility", and be located at the interior end and at mid-point of the space, mounted either on a pole at a minimum height of 80 inches above grade or on a wall a minimum of 48 inches above finished grade.
- 4. NOTE: As provided for in Pataskala Codified Ordinance Section 351.04(e): "If a new sign or a replacement sign designating a special parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the special designated parking location if the motor vehicle is not legally entitled to be parked in that location.



D. Existing spaces: Any such handicapped parking spaces which are not currently designated as set forth herein shall be brought into compliance with this provision if doing so is readily achievable, per U.S. Department of Justice ADA Guide for Small Businesses. (Ord. 2008-3884. Passed 1-5-09.)

1291.08 SHARED PARKING ARRANGEMENTS.

A. Two or more uses may share parking facilities without providing the minimum number of on-site required spaces for each use, providing all of the following conditions are met:

- 1. The minimum required number of parking spaces for the combined uses may be reduced by 20% for shared parking where hours of operation overlap or 60% for shared parking where the hours of operation do not overlap. Residential uses, unless otherwise noted in the applicable district requirements shall not be allowed to share parking facilities.
- 2. Off-site spaces shall be within 800 feet walking distance of a building entrance or use. If the pedestrian access is to cross an arterial street, appropriate safety measures must be present to assist the pedestrian to cross the street. In any event, safe and convenient pedestrian access, such as a sidewalk or path, must exist or be provided from the structure or use to the parking area by the property owner(s).
- 3. The parking facility to be shared must contain at least the minimum required spaces of the largest individual use sharing the lot and shall be developed to the extent of at least being paved and striped according to the standards of this chapter.
- 4. A written agreement through a lease or permanent easement, stating the terms under which the proposed shared parking shall be developed and maintained, shall be filed with the application for a zoning permit. Such agreement shall be reviewed to ensure compliance with this Code by the City Director of Law and Zoning Inspector prior to issuance of a zoning permit.
- 5. No changes shall be made to the shared parking facility which would reduce the parking provided for the uses, unless the owner of one of the uses makes other arrangements in writing to provide parking. No such change shall be made without approval of the Zoning Inspector.
- 6. Parking spaces to be shared must not be reserved for a specific person, individual, or use on a 24-hour basis.
- 7. Handicapped parking spaces cannot be shared, unless the uses that are to share the spaces are adjacent to the handicap spaces and no inconvenience to the users of such spaces would be created.
- 8. Loading spaces may be shared subject to the approval of the Zoning Inspector.
- 9. Any proposed changes in the use of a structure that shares a parking facility will require proof that adequate parking is available.

1291.09 DISABLED VEHICLES.

The parking of a disabled vehicle, excluding agricultural equipment, in a residential or commercial district for a period of more than seventy two (72) hours shall be prohibited, unless such vehicle is stored in an enclosed garage or other accessory building or, if stored in the open, it shall be concealed by means of fencing or hedges which are a minimum of 72 inches in height and completely opaque at the time of installation, or it shall be removed from the property. (Ord. 2009-3903. Passed 5-18-09.)

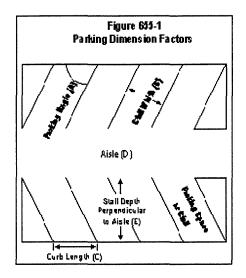
1291.10 LIMITATION OF PARKING IN RESIDENTIAL DISTRICTS.

- A. The provision of open or enclosed storage of vehicles or trailers shall be subject to the following:
 - Commercial Vehicles. No commercial vehicle weighing 6,501 pounds or 1. more shall be stored, parked, or allowed on a residentially zoned lot. However, 1 commercial vehicle, weighing 6,500 pounds or less, limited to a 2 axle construction which has operating characteristics similar to those of a passenger car and/or does not infringe upon the residential character of the residentially zoned district may be permitted. Infrequent short-term parking of a commercial or commercial-type vehicle for conveying tools and materials to premises where labor using such tools and materials is being performed, delivering goods to a residence, or moving furniture to or from a residence, all only during the time such parking is actually necessary, is hereby excepted from this section. For purposes of this section "commercial vehicle" means any vehicle used or designed to be used for business or commercial purposes which infringes on the residential character of a residential district and includes, but is not necessarily limited to: a bus, cement truck, commercial tree trimming equipment, construction equipment, dump truck, garbage truck, panel truck, box truck, semi tractor, semi trailer, stage bed truck, step van, tank truck, tar truck, tow truck, and/or commercial trailers.
 - 2. Camping Trailers or Other Trailers. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored in any residential, business, or manufacturing zoning district other than in completely enclosed buildings. However, one boat and the trailer upon which it is transported may be stored in the side or rear yard if the vehicles have a current license and are not stored within the required setbacks for that zoning district.

1291.11 PARKING AND LOADING SPACE DIMENSIONS.

All dimensions shall be exclusive of driveways, aisles, and other circulation areas. The number of required off street parking spaces is established in Section 1291.16 and actual use of the areas shall not encroach upon any driveway aisle or circulation area. One off-street loading space shall be provided and maintained on the same lot for every occupancy requiring delivery of goods and having a modified gross floor area of up to 5,000 square feet. One loading space shall be provided for each additional 20,000 square feet.

Parking space dimensions are measured as indicated in Figure 655-1.



Parking Space Type (A)	Parking Space Maneuvering (D)	Lane Width (B)	Lane Length (E)
Parallel Parking	12 feet	9 feet	23 feet
30-53 Degree Angle Parking	13 feet	9 feet	19 feet
54-74 Degree Angle Parking	15 feet	9 feet	19 feet
75-90 Degree Parking	20 feet	9 feet	19 feet
Loading Space	Length	Width	Height Clearance
	50 feet	12 feet	15 feet

1291.12 PERIMETER SCREENING AND/OR LANDSCAPING.

Whenever a parking area is located in or adjacent to a residential, agricultural, or PRO district, it shall be effectively screened on all sides which adjoin or face any property used for residential, agricultural, or PRO purposes by an acceptably designed wall, a fence that is 75% opaque (made of natural material or material that appears to be natural), landscaped berm, or planting screen. Such fence, wall, or planting screen shall be not less than four feet nor more than eight feet in height and shall be maintained in good condition. The space between such fence, wall berm, or planting screen and the lot line of the adjoining premises in any residential, agricultural, or PRO district shall be landscaped with grass, hardy shrubs or evergreen ground cover, and maintained in good condition.

In the event that terrain or other natural features render these requirements impractical, then some written compromise agreement between adjoining property owners, witnessed by two persons, is required.

1291.13 INTERIOR SCREENING AND/OR LANDSCAPING.

- A. It is the intent of this Code that interior parking lot landscaping be used to the maximum extent practical to:
- Provide for safe and efficient movement of both vehicular and pedestrian traffic.
- Enhance pedestrian safety through the use of raised walkways and vegetated islands.
- "Break up" the parking area with landscaped islands in order to promote and enhance visual appeal as well as to provide a mechanism to reduce radiant heat generated by large amounts of asphalt common to parking lots.
- Provide for the connection of on-site pedestrian walkways and bikeways to other, existing pedestrian and bicycle circulation systems that serve adjacent commercial and residential uses.
- B. Interior parking lot landscaping standards shall conform to the following requirements:
 - 1. All surface parking areas with more than 10 spaces shall provide curbed interior landscaping complying with one or a mix of the standards set forth below:
 - a. Option 1 Interior landscaping shall be provided at the rate of 20 square feet per stall. At least one tree must be provided for every 200 square feet of landscaped area. Ground cover plants as listed in Chapter 1283 must completely cover the remainder of the landscaped area.
 - b. Option 2 One tree must be provided for every four parking spaces. The tree planting area must have a minimum dimension of 25 square feet. All island trees shall be protected from potential damage by vehicles.
 - 2. The following development standards shall apply:
 - a. All landscaping must comply with the standards in the Chapter 1283
 - b. Interior parking area landscaping must be dispersed throughout the parking area. Some trees may be grouped, but the groups must be dispersed subject to the approval of the Planning and Zoning Commission.
 - c. Perimeter landscaping may not substitute for interior landscaping.

The minimum landscaping for surface parking areas is one tree per 5,000 square feet of site area. The tree planting area must have a minimum dimension of 25 square feet or its equivalent. All island trees shall be protected from potential damage by vehicles.

1291.14 MINIMUM DISTANCE AND SETBACK.

No part of any parking area for more than ten vehicles shall be closer than 20 feet to any dwelling unit, school, hospital, or other institution for human care located on an adjoining lot, unless separated by an acceptably designed screen. In no case shall any part of a parking area be closer than 15 feet to any established street right-of-way.

1291.15 WIDTH OF ACCESS DRIVEWAY.

The entrances and exits to the parking area shall be clearly marked. Interior vehicular circulation by way of access roads shall maintain the following minimum standards: for one-way traffic the minimum width of 14 feet except for 45 degree parking in which case the minimum width of the access road shall be 17 feet. Access roads for two-way traffic shall have a minimum width of 28 feet. Parking areas having more than one aisle or driveway shall have directional signs or markings in each aisle or driveway.

1291.16 REQUIRED NUMBER OF OFF-STREET PARKING SPACES.

For the purpose of this Code, the following minimum parking space requirements shall apply (unless otherwise specified in the underlying district):

	Type of Use	Minimum Number of Parking Spaces Required
	Residenti	al
1.	Single family or two family dwelling	2 per dwelling unit
2.	Apartments or multi-family dwellings	2 per dwelling unit
3.	Institutional housing, boarding houses, rooming houses, dormitories, and fraternity houses which have sleeping rooms	1 per 3 occupants plus 1 for each employee for main work shift
4.	Manufactured homes	2 for each unit
	Recreational Or Er	ntertainment
1.	Dance floors, arcades, and miniature golf	1 for each 100 square feet of area used for the activity
2.	Softball, basketball, baseball, football, soccer, skating rink, or similar organized indoor or outdoor sport play field	50 for each play field, plus 1 for each 5 seats in stands
3.	Tennis, handball, racquetball, or squash courts	3 for each court
3.	Tennis, handball, racquetball, or	3 for each court

4.	Bowling alleys	5 per lane plus necessary spaces as required for affiliated uses, such as restaurants
5.	Swimming facility	1 per 50 square feet of total water surface
6.	Theaters, stadium or sports arenas, auditorium or other assembly halls other than schools	1 for each 4 seats
7.	Golf driving range	1 space per tee or driving bay
8.	Golf course	5 spaces per hole
9.	Campgrounds	1 space for each camp site
	Institutiona	al
1.	Churches and other places of religious assembly	1 for each 5 seats
2.	Hospitals, nursing facilities, homes for aged, asylums, and similar uses.	1 for each 4 beds plus 1 per employee on the main shift, or 1 per 500 square feet of floor area - whichever is most restrictive
3.	Public, private, or parochial school	
	a. Elementary and junior high schools	2 for each classroom plus 1 for every eight seats in auditorium or assembly halls
	b. High Schools	1 for every 10 students plus 1 for each teacher and employee
	c. Business, technical, and trade schools	1 for each two students
	d. Colleges and Universities	1 for each four students
	e. Kindergartens, child care centers, nursery schools, and similar uses	2 for each classroom but less than 6 for the building; 1 for each 200 square feet of floor area
4.	Nursery School/Day Care	1 for each 15 students of proposed capacity
5.	Libraries, museums, community centers, and art galleries	1 for each 400 square feet of gross floor area
6.	Civic, social, fraternal organizations	1 for each 3 persons allowed under maximum occupancy of main meeting room

	Commerci	cial
1.	Food, departmental or general merchandise, hardware, drugs, and similar retail sales	1 for each 200 square feet of gross floor area
2.	Home furnishings, appliances, apparel, and similar retail sales	1 for each 300 square feet of gross floor area
3.	Eating and drinking establishments without drive through facilities	1 for each 100 square feet of gross floo area
4.	Restaurants with drive through facilities	1 for each 85 square feet of gross floor area, plus additional stacking spaces in the drive-through lane
5.	Personal services, including banks, savings and loans, repair services without drive-through facilities	1 for each 200 square feet of gross floor area
6.	Banks, savings and loans and similar uses with drive-through facilities	1 for each 200 square feet of gross floo area plus additional four stacking spaces in each drive-through lane
7.	Barber and beauty shops	3 for each operating station
8	Fuel services stations	2 for each service bay plus 1 for each 2 fuel dispensing units, plus 1 for each employee during main shift
9.	Self-serve laundries	1 for each 3 washers
10.	Vehicle sales and service, garden centers, and lumber yards	1 for each three-hundred square feet of indoor gross floor area, plus 1 space per one-thousand square feet of outdoor display area
11.	Temporary outdoor sales devoted	1 for each 200 square feet of area to display and sales of goods
12.	Hotels, motels, lodging houses	2 for each sleeping room or suite, plus 1 space for each employee during main shift, plus 1 space per five sleeping rooms
13. M	edical or dental offices	5 for each doctor or dentist, plus 1 for each other employee during main work shift; or for every 200 square feet of examination, treating room, office, and waiting rom

14.	Animal hospitals/clinics, veterinarian office	5 for each veterinarian, plus 1 for each other employee during main work shift; or 1 for every 200 square feet of examination, treating room, office, and waiting room.
15.	General, professional, or administrative business office	1 space for each 400 square feet of gross floor area
16.	Commercial and business support services	1 space for each 400 square feet of gross floor area
17.	Neighborhood convenience store	1 space per 200 square feet
18.	Kennel	1 space per 500 square feet
	Industrial and Manu	facturing
1.	Manufacturing, compounding, processing, assembling, packaging or treatment of goods; warehousing, distribution and service industries	1 per 750 square feet gross floor area for the first 3,000 square feet of gross floor area, plus 1 per 2,000 square feet of gross floor area thereafter
2.	Administrative offices	1 for each 400 square feet of gross floor area

NOTE: The Planning and Zoning Commission shall reserve the right to determine if an unlisted use is similar to one listed or determine the number of parking spaces required for any use not mentioned in this section.

1291.17 PROVISION OF PARKING SPACES IN THE DB DISTRICT.

Buildings and permitted uses within the DB District shall be exempt from the requirements of Sections 1291.16 and 1291.18.

1291.18 REQUIRED NUMBER OF OFF-STREET LOADING SPACES. Loading spaces shall be provided according to the following schedule of uses:

Type of Use	Minimum Number of Spaces Required
Comm	ercial
Less than 2,500 square feet gross floor area	
2,500 - 10,000 square feet	1
Over 10,000 square feet gross floor area	1, plus 1 for each additional 10,000 square feet or fraction thereof above 10,000 square feet
Office or Ir	nstitutional
10,000 or less square feet gross floor area	0
Over 10,000 square feet gross floor area	1, plus 1 for each additional 10,000 square feet or fraction thereof above 10,000 square feet
Industrial and	Manufacturing
Less than 2,500 square feet gross floor area	0
2,500 - 10,000 square feet	1
Over 10,000 square feet gross floor area	1, plus 1 for each additional 10,000 square feet or fraction thereof above 10,000 square feet

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CHAPTER 1293 Wireless Telecommunication Facilities

1293.01	Purpose.	1293.08	General requirements.
1293.02	Applicability.	1293.09	Abandonment.
1293.03	Definitions.	1293.10	Nonconforming towers
1293.04	Permitted.		or wireless telecommunication
1293.05	Permit required.		facilities.
1293.06	Conditional use review.	1293.11	Severability.
1293.07	Zoning permit contents.	1293.12	Enforcement and penalty.

1293.01 PURPOSE.

The purpose of this chapter is to regulate the placement, construction, and modification of towers and wireless telecommunication facilities to protect the health, safety and general welfare of the public, while permitting reasonable development of wireless telecommunications in the City that seek to further the following city priorities:

- A. To direct the location of towers and wireless telecommunications facilities in the City
- B. To protect residential areas and land uses from potential adverse impacts of towers and wireless telecommunication facilities.
- C. To minimize adverse visual impacts of towers and wireless telecommunication facilities through careful design, siting, landscaping and innovative camouflaging techniques.
- D. To promote and encourage shared use/co-location of towers and antenna support structures as a primary option rather than construction of additional single use towers
- E. To avoid potential damage to adjacent properties caused by towers and wireless telecommunication facilities by ensuring such structures are soundly and carefully designed, constructed, modified maintained and removed.
- F. To the greatest extent feasible, ensure that towers and wireless telecommunication facilities are compatible with surrounding land uses.
- G. To the greatest extent feasible, ensure that proposed towers and wireless telecommunication facilities are designed in harmony with the natural setting and in a manner consistent with current development patterns. (Ord. 2018-4316. Passed 6-18-18.)

1293.02 APPLICABILITY.

A. All towers, antenna support structures and wireless telecommunication facilities, any portion of which are located within the City, are subject to this chapter.

- B. Any approved use of a nonconforming tower or antenna support structure on the effective date of this chapter shall be allowed to continue, even if in conflict with the terms of this chapter, but shall not be expanded, reconstructed, or modified unless in conformance with this chapter.
- C. Should any provisions of this chapter conflict with any other provision of the Code, the provisions of this chapter shall prevail. (Ord. 2018-4316. Passed 6-18-18.)

1293.03 DEFINITIONS.

Antenna: any transmitting or receiving device used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, wireless telecommunication signals, or other communication signals. This definition does not include over-the air reception devices which receive television broad cast signals, direct or broadcast signals, direct broadcast satellite services or multichannel multi-point distribution services.

Antenna Support Structure: Any building or structure other than a tower which can be used for the location of wireless telecommunications facilities.

Applicant: Any person who applies for administrative review, conditional use review, or other permit or approval pursuant to the requirements of this chapter.

Application: The materials and process by which an applicant submits a request as authorized by the property owner and indicates a desire to be granted approval of an antenna, tower, antenna support structure, or any other wireless telecommunications facility under the provisions of this chapter. An application includes all written documentation, representations and verbal statements in whatever form or forms made by an applicant to the City concerning such a request.

Board of Zoning Appeals: The Board of Zoning Appeals for the city, as created by the City Charter, Article VII.

City: The City of Pataskala, Ohio

<u>Co-location:</u> The use of, or ability to use, a wireless telecommunications facility by more than one wireless communications provider.

<u>Conditional Use:</u> The use allowed in a zoning district after approval of the Board of Zoning Appeals pursuant to the provisions of Chapter 1215 of the Pataskala Code.

<u>Distributed Antenna System (DAS)</u>: A network of separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure which also may or may not contain fiber optic transport and/or landline components.

<u>Emergency:</u> A reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action.

Engineer: Any engineer currently licensed in the State of Ohio.

<u>Equipment Shelter:</u> The structure in which the electronic receiving and relay equipment for a wireless telecommunication facility is housed.

<u>FAA:</u> The United States Federal Aviation Administration, and any legally appointed, designated, or elected agent or successor.

<u>FCC</u>: The United States Federal Communications Commission and any legally appointed, designated, or elected agent or successor.

<u>Height:</u> When referring to a tower or other antenna support structure, the distance measured from the finished grade at the base of the tower or structure to the highest point on the tower or structure, including the base pad and any wireless telecommunication facilities, but not including lighting arrest devices.

Monopole: A support structure constructed of a single, self-supporting hollow metal tube or other appropriate pole like structure securely anchored to a foundation.

<u>Nonconforming Tower:</u> Any tower or antenna lawfully existing at the effective date of or amendment of this chapter which does not currently conform to the requirements of this chapter.

<u>Person:</u> Any individual, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not-for-profit.

<u>Tower:</u> A self-supporting lattice, guyed or monopole structure constructed from grade which supports wireless telecommunication facilities. The term "tower" shall not include amateur radio operators' equipment as licensed by the FCC.

<u>Wireless Telecommunication Facilities:</u> Any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications as authorized by the FCC which a person seeks to locate or has installed upon a tower or antenna support structure. However, the term "wireless telecommunication facilities" shall not include:

- A. Any satellite earth station antenna two (2) meters in diameter or less which is located in a non-residential district.
- B. Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.
- C. Antennas used by amateur radio operators.
- D. Towers, structures, antennas, or other equipment used for the purposes of operating public safety voice or data radio network or an outdoor early warning system within the city limits. This includes directional and omnidirectional antenna equipment as well as microwave and point-to-point equipment.

 (Ord. 2018-4316. Passed 6-18-18.)

1293.04 PERMITTED.

Wireless Telecommunication Facilities shall be conditionally permitted in the following zoning districts:

- A. Professional Research Office District (PRO)
- B. Downtown Business District (DB)
- C. Local Business District (LB)
- D. General Business District (GB)

- E. Light Manufacturing District (M-1)
- F. Planned Manufacturing District (PM) (Ord. 2018-4316. Passed 6-18-18.)

1293.05 PERMIT REQUIRED.

- A. No person shall construct a new wireless telecommunication facility without first receiving conditional use approval pursuant to Chapter 1215 of the Pataskala Code.
- B. No person shall expand an existing wireless telecommunication facility without first receiving conditional use approval pursuant to Chapter 1215 of the Pataskala Code.
- C. No person shall construct, expand, modify or otherwise alter a wireless telecommunication facility without first receiving a zoning permit pursuant to Chapter 1209 of the Pataskala Code.
- D. Routine maintenance of a wireless telecommunication facility shall not require a permit. (Ord. 2018-4316. Passed 6-18-18.)

1293.06 CONDITIONAL USE REVIEW.

- A. <u>Application:</u> Any person applying for Conditional Use approval of a wireless telecommunication facility shall provide the following:
 - 1. A Conditional Use application form provided by the Planning and Zoning Department and the proper filing fees.
 - 2. A site plan drawn at a scale not less than 100 feet to the inch on one (1) or more sheets 22 inches by 34 inches containing the relevant information of this Chapter.
 - 3. A narrative statement addressing the criteria outlined in this chapter and Chapter 1215 of the Pataskala Code.
 - 4. The appropriate number of copies of the application materials, as determined by the City Administrator or their designee. Reduced size copies may be required.
 - 5. An electronic copy of the application materials submitted as a Portable Document Format (pdf) file or other acceptable format.
 - 6. Additional information as required by the City Administrator or their designee.
- B. <u>Conditional Use Review Considerations</u>: In addition to any standards for consideration of an application for conditional use review pursuant to Chapter 1215 of the Pataskala Code, the Board of Zoning Appeals shall consider the following factors in determining whether the application should be approved:
 - 1. Compliance with the requirements of this chapter.
 - 2. Height of the proposed tower and its proximity to residential structures and residential districts.
 - 3. Nature of the potential for adverse effects on uses on adjacent and nearby properties.
 - 4. Relationship of surrounding topography to the view from nearby properties
 - 5. Surrounding tree coverage and foliage and the ability to screen the facility from the view of nearby properties.

- 6. Design of the tower or wireless telecommunication facility, with particular regard to design characteristics that have an effect on reducing or eliminating visual obtrusiveness.
- 7. Proposed ingress and egress for maintenance, safety, and prohibition of nuisances.
- 8. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures with regards to the following:
 - i. New towers shall be approved only when other preferable alternatives are not available. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Zoning Appeals that no existing tower, structure, or alternative technology is available to fill the communication requirements.
 - ii. The applicant shall submit required information for review by the Board of Zoning Appeals related to the availability of suitable existing towers, other structures, or alternative technology. Evidence submitted to demonstrate that no existing tower, structure, or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
 - a. No existing towers or other suitable structures are located within the specific geographic limits meeting the applicant's engineering requirements.
 - b. Existing towers or structures either do not have sufficient height to meet the applicant's engineering requirements, or have inefficient structural strength to support the applicant's proposed antenna and related equipment.
 - c. The applicant's proposed antenna would cause frequency interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - d. The fees, costs, or contractual provisions required by the owner in order to share or to adapt for sharing an existing tower or structure are unreasonable. Costs that would exceed new tower development is an example of what may be presumed to be unreasonable.
 - e. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - f. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as DAS using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable, but may be considered as a factor in the decision.
 - g. The applicant provides documentation that other tower owners were contacted in writing demonstrating the above considerations.

- C. In granting a conditional use, the Board of Zoning Appeals may impose conditions to the extent necessary to minimize any adverse effect of the proposed tower or antenna support structure on adjoining properties or to meet the review considerations of this section.
- D. The findings and decision of the Board of Zoning Appeals shall be based on and supported by substantial evidence contained in written record and record of action which shall be forwarded to the applicant within 10 days following the decision. The decision of the Board of Zoning Appeals shall be final.

(Ord. 2018-4316. Passed 6-18-18.)

1293.07 ZONING PERMIT CONTENTS.

Any person applying for a zoning permit for a wireless telecommunication facility shall provide the following:

A. A Wireless Telecommunication Facility application form provided by the Planning and Zoning Department and the proper filing fees.

B. A site plan drawn at a scale not less than 100 feet to the inch on one (1) or more sheets 22 inches by 34 inches containing the relevant information of this Chapter.

C. Evidence of Conditional Use approval by the Board of Zoning Appeals, if applicable.

D. Additional information as required by the City Administrator or their designee. (Ord. 2018-4316. Passed 6-18-18.)

1293.08 GENERAL REQUIREMENTS.

The following requirements shall apply to all wireless telecommunication facilities:

- A. <u>Tower Color:</u> the tower shall be a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the FAA or FCC.
- B. <u>Fencing:</u> Security fencing shall surround the tower, equipment shelter and all appurtenances, wither completely or individually as determined by the Board of Zoning Appeals. The security fencing shall meet all requirements for fencing pursuant to Chapter 1279 of the Pataskala Code.
- C. <u>Buffering:</u> Buffer plantings shall be located around the perimeter of the security fence as deemed appropriate by the Board of Zoning Appeals for proposed wireless telecommunication facilities. Buffer plantings shall be an evergreen screen that should consist of a hedge planted a maximum of three (3) feet on center, or a row of evergreen trees planted a maximum of six (6) feet on center or other screening determined to be appropriate by the Board of Zoning Appeals.
- D. <u>Existing Vegetation</u>: Existing vegetation, such as trees and shrubs, shall be preserved to the maximum extent possible.
- E. <u>Signage:</u> No signs shall be permitted on a wireless telecommunication facility or tower with the exception of a notification sign indicating emergency contact information. Such sign shall be non-illuminated and not larger than two (2) feet by three (3) feet in size.
- F. <u>Lighting:</u> No tower of antenna shall be artificially lighted except to assure safety or as required by the FAA.
- G. <u>Height:</u> No tower shall exceed 200 feet in height.
- H. Accommodation: All towers shall be constructed or reconstructed to accommodate multiple users.
- I. <u>Setbacks:</u> A tower shall be setback a minimum of 110 percent of the tower height from all property lines.
- J. <u>Nonessential Services:</u> Towers and wireless telecommunication facilities shall be regulated and permitted pursuant to this Chapter and shall not be regulated or permitted as essential services, public utilities or private utilities.

- K. <u>Engineer Certification</u>: Tower and antenna support structures shall be designed and certified by a Professional Engineer licensed by the State of Ohio to be structurally sound and, at a minimum, in conformance with the Ohio Basic Building Code.
- L. State or Federal Requirements: All towers shall meet or exceed current standards and regulations for the FAA, the FCC and any other agency of the state or federal government with the authority to regulate towers and wireless telecommunication facilities. If such standards and regulations are changed, then the owners of the towers and wireless telecommunication facilities governed by this chapter shall bring such towers and antennas into compliance with such revised standards within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency.
- M. <u>License to Operate</u>: Owners and operators of towers or wireless telecommunication facilities shall have and maintain all franchises, certifications, licenses and permits required by law for the design, construction, location and operation of wireless telecommunications in the City. Owners and/or operators shall provide evidence of removal or extension thereof when granted.
- N. <u>Co-location:</u> All wireless telecommunication facilities constructed within the City shall be capable of accommodating at least one (1) other wireless telecommunication facility unless the owner of the wireless telecommunication facility can establish that providing for such co-location is not feasible or would violate local, state, or federal law.
- O. <u>No Tower Facilities:</u> Any wireless telecommunication facility not attached to a tower shall be an ancillary use to any commercial, industrial or institutional use provided that the person making such ancillary use meets the applicable provisions of this chapter in addition to the following criteria:
 - 1. The total height of the antenna support structure and wireless telecommunication facility does not exceed the maximum height limitations in the applicable zoning district and does not extend more than 20 feet above the height of that portion of the building on which it is located.
 - 2. Any wireless telecommunication facilities and their appurtenances located on the roof of a building, are set back one (1) foot from the edge of the roof for each one (1) foot in height of the wireless telecommunication facility. However, this setback requirement shall not apply to antennas less than two (2) inches in thickness, which are mounted to the sides of antenna support structures, but which do not protrude more than six (6) inches from the side of such antenna support structure.
 - 3. The wireless telecommunication facility shall utilize camouflaging techniques or will be side-mounted to an antenna support structure in order that the wireless telecommunication facility harmonizes with the character and environment of the area in which it is located. (Ord. 2018-4316, Passed 6-18-18.)

1293.09 ABANDONMENT.

All providers utilizing wireless telecommunication facilities shall notify the City in writing of the location and date that any tower facility located in the City whose use shall be discontinued. If at any time the use of the wireless telecommunication facility is decommissioned for 180 days, the City Administrator or their designee may declare the wireless telecommunication facility abandoned (this excludes a one (1) year dormancy period between construction and the initial use of the wireless telecommunication facility). The facility's owner/operator and property owner shall receive written notice from the City and be instructed to either reactivate the facility's use within 180 days, or dismantle and remove the facility.

- A. If reactivation or dismantling does not occur as described in Section 1293.09(A), the City may remove or cause the facility and associated structures to be removed and assess the costs to the owner/operator and the property owner. In the case of a multi-use tower or wireless telecommunication facility, the provision does not become effective until all users cease use of the tower or facility. However, the City may cause the abandoned portions of the systems on the multi-use tower or facility to be removed in accordance with this provision.
- B. Before initiating action to remove the facility, the City shall provide the owner of the tower or wireless telecommunication facility and property owner 90 days written notice and an opportunity to be heard by the Board of Zoning Appeals to appeal the decision. After this notice has been provided, or following a determination by the Board of Zoning Appeals that the tower or facility has been abandoned, the City may take whatever action that is lawful to order the removal or demolition of the tower or facility and all appurtenances.
- C. If the removal is appealed, a public hearing shall be held before the Board of Zoning Appeals following the 90 day notice as required in Section 1293.09(C), the Board of Zoning Appeals may recommend that the City Administrator order the removal or demolition of the facility. The City may assess the costs associated with the removal or demolition of the facility to the owner/operator and/or the property owner. (Ord. 2018-4316. Passed 6-18-18.)

1293.10 NONCONFORMING TOWERS OR WIRELESS TELECOMMUNICATION FACILITIES.

- A. Wireless telecommunication facilities that are constructed in accordance with the provisions of this chapter shall be deemed conforming uses or structures, regardless of their date of construction.
- B. Towers already in existence shall be permitted to continue their use as they exist as of the date of the adoption or amendment of this chapter, but shall not be expanded or reconstructed unless in conformance with this chapter. Routine maintenance shall be permitted. (Ord. 2018-4316. Passed 6-18-18.)

1293.11 SEVERABILITY.

If any particular portion of this chapter is declared to be invalid by a court of competent jurisdiction, such declaration of invalidity shall be limited to the particular portion declared invalid. This declaration of invalidity shall not affect or impair the remainder of this chapter, and to this end, the provisions are severable. (Ord. 2018-4316. Passed 6-18-18.)

1293.12 ENFORCEMENT AND PENALTY.

The City Administrator or their designee shall determine compliance with the provisions of this chapter.

Whoever violates any section of this chapter shall be guilty of a minor misdemeanor. Any such violation shall constitute a separate offense on each successive day continued. Strict liability is intended to be imposed for a violation of this chapter. (Ord. 2018-4316. Passed 6-18-18.)

CHAPTER 1294 Impact Fees

1294.01	Purpose and intent.	1294.05	Establishment of impact fee
1294.02	Definitions.		fund; use and appropriation of
1294.03	Applicability and exemptions.		impact fee proceeds; and
1294.04	Procedures for imposition,		refunds.
	calculation, reimbursement,	1294.06	Review and adjustments.
	credit, and collection of impact	1294.07	Street impact fee.
	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 ore 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) <u>Term.</u> This chapter and the procedures established herein shall remain in effect unless and until repealed, amended, or modified by City Council.

- (b) <u>Affected Area.</u> 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) <u>Type of Development Affected.</u> 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) <u>Temporary uses.</u> 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) <u>Development agreements.</u> 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) <u>Non-profit organizations.</u> 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) <u>In General.</u> 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) <u>Calculation</u>.

- (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.
- After making these determinations, the Cîty 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) <u>Independent Impact Analysis</u>. 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) <u>Procedures for reimbursements.</u>
 - 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 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. <u>City Council.</u> 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) <u>Calculation of the value of dedication or construction.</u> The amount of the reimbursement to be paid by the City is to be calculated as follows:
 - A. <u>Construction of facilities and provision of equipment.</u> 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) <u>Development agreement requirements.</u> 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.

 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.

- 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. <u>City Council.</u> 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) <u>Collection</u>. 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) <u>Use of funds</u>. 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.

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.
- 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. <u>City Council.</u> 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.
- 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.
- 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.

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) <u>City Council action.</u> 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) <u>Impact Fee for Residential Development.</u> 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) <u>Impact Fee for Nonresidential Development.</u> 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.)

CHAPTER 1295 Signs

1295.01 1295.02	Purpose. Sign definitions.	1295.11	Existing signs - non- conforming or alterations to.
1295.03	Scope.	1295.12	Construction standards.
1295.04	Prohibited signs.	1295.13	Sign Master Plans Design
1295.05	Sign permit process		Review.
	(to modify or erect	1295.14	Areas of special character
	new signs).		and creative signs permit -
1295.06	Exempt signs (no permit		design review. (See Section
	required).		1295.09(b)(1), Standards).
1295.07	Signs for public and	1295.15	Enforcement and remedies.
	semi-public purposes.	Table 129	95-1 Examples of Sign
1295.08	Temporary signs.		Characteristics Permitted
1295.09	General sign standards.		by Zoning/Special District.
1295.10	Illuminated signs.	Table 129	

CROSS REFERENCES

Unlawful traffic signs - see TRAF. 313.07 Sign definitions - see P. & Z. Ch. 1203 Sign measurements - see P. & Z. 1205.05

1295.01 PURPOSE.

Signs have a clear impact on the character and quality of the City. As a prominent part of the community, signs may attract or repel the viewing public, affect the safety of pedestrian and vehicular traffic, and help set the character and legibility of neighborhoods in the City.

This chapter regulates signs which are visible from streets or which are visible from one site to another.

The regulations for signs have the following specific objectives:

- (a) To ensure that the constitutionally guaranteed right of free speech is protected.
 - (1) These standards shall be content neutral, and regulate on the basis of location, number, size and manner of display.
- (b) To encourage the effective use of signs as a means of communication;
 - (1) To provide for adequate identification, communication and advertising for businesses and services.
 - (2) To enable customers and other persons to locate businesses and services.
 - (3) To encourage the orderly placement of signs so that information is clearly visible and legible.
 - (4) To provide that no person is arbitrarily denied the use of sight lines from the public right-of-way for communication purposes.
 - (5) To provide that the number of messages are not presented in such overwhelming volume that information is actually obscured, or that observers are unable to observe or ignore messages according to the observer's own purpose.

- (6) To protect the aesthetic environment that has contributed to the City's growth, and to enhance its ability to attract new sources of economic security and health by providing that signs:
 - A. Do not interfere with scenic views.
 - B. Do not create a nuisance to persons using public rights of way.
 - C. Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height, or movement.
 - D. Are not detrimental to land or property values.
 - E. Contribute to the special character of particular places or districts within the City, helping the observer to understand the City and orient within it.
 - F. Use creativity and craftsmanship in design to avoid monotonous uniformity.
 - G. To ensure that signs in any district reflect the expressed purpose of the adopted Comprehensive Plan.
- (c) To protect the public safety and welfare, by providing that signs:
 - (1) Are designed, constructed, installed, and maintained to prevent hazard due to collapse, fire, collision, decay or abandonment.
 - (2) Do not obstruct fire fighting or police surveillance.
 - Do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to read traffic control signs.
- (d) To minimize adverse impacts and avoid nuisances to nearby public and private properties.
- (e) To provide for an orderly, well maintained and attractive community.
- (f) To enable the fair and consistent enforcement of these sign regulations.
- (g) To establish a permit system that allows a variety of types of signs in commercial, office and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this chapter.
- (h) To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this chapter, but without a requirement for permit.
- (i) To prohibit all signs not expressly permitted by this chapter. (Ord. 2012-4067. Passed 10-1-12.)

1295.02 SIGN DEFINITIONS.

Sign related definitions are stated in Chapter 1203, Definitions, and are listed under "Signs". (ORd. 2012-4067. Passed 10-1-12.)

1295.03 SCOPE.

- (a) The regulations do not restrict the content of signs. This chapter applies to all zoning districts in the City. The issuance of a permit shall not excuse the applicant from conforming to the other laws and ordinances of the City or from the provisions of approved sign master-plans.
- (b) <u>Permits Required.</u> Except as otherwise provided, no person shall erect, alter, or relocate any sign without first obtaining a permit from the Zoning Inspector. Subsequent to this initial application, no permit shall be required for a sign to be repaired or repaired provided that the sign is returned to its original design, condition, placement or presentation.

- (1) If a sign requiring a permit under the provision of this Code is to be placed, constructed, erected, or modified on a zone lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign in accordance with Section 1295.05, below.
- Furthermore, the property owner shall maintain in force, at all times, a sign permit for such sign in accordance with Section 1295.05(b).
- No signs shall be erected in the public right-of-way except in accordance with exceptions noted in Section 1295.07.
- (4) No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this Code (including protecting existing signs) in every respect and with the Master Sign Plan in effect for the property.

 (Ord. 2012-4067. Passed 10-1-12.)

1295.04 PROHIBITED SIGNS.

These prohibitions shall apply to all signs erected in the City of Pataskala, whether exempted from permits or regulated under this section.

- All off-premise signs are prohibited except as otherwise provided herein. In these cases, a permit shall be issued only after the applicant has furnished the Zoning Inspector with written permission from the owner of the property.
- (b) No sign shall be illuminated by or contain flashing, intermittent, rotating or moving lights except to show time and temperature. See also Section 1295.10 Illuminated Signs.
- (c) Internally illuminated cabinet signs of translucent material in which the whole face glows are not permitted. See Section 1295.10(b)(1).
- (d) No sign shall impair or cause confusion of vehicular or pedestrian traffic in its design, color, placement or display characteristics. No sign shall impair visibility for the motorist at a street corner or intersection by placement and location within thirty-five (35) feet of the intersection of the street or highway lines.
- (e) No business shall for the purpose of attracting attention display balloons, pennants, ribbons, streamers, spinners or similar moving, fluttering, inflatable, or revolving devices, except "OPEN" flags as described in Section 1295.09 or American flags. The exemption for American flags shall not include devices that use red, white and blue or stars and stripes motifs.
- (f) No advertising message shall be extended over more than one sign placed along a street or highway unless included as an integral part of a sign master plan.
- (g) No two permitted signs may be combined to create a larger sign, except as provided in Setion 1295.09(b)(2)D.3.
- (h) Notwithstanding any other provision to the contrary no private or commercial signage, whether temporary or otherwise, shall be placed within any right-of-way of the City whether road or street right-of-way or an intersection right of-way of the City or State, except for approved directional signs as described in Section 1295.13(d).
- (i) No sign consisting of the message "sold", "under Contract" or a similar message, denoting a closed completed transaction, shall be permitted for more than thirty (30) days.
- (j) No signs shall be attached to trees or utility poles. Signs attached to fences, rocks or other parts of a natural landscape shall not be positioned where they obstruct or impair traffic or in any manner create a hazard or disturbance to the health, safety and welfare of the general public.

(k) No sign shall be attached to, painted on, or placed on a motor vehicle, trailer, or other licensed or unlicensed vehicle or conveyance, self-propelled or otherwise, parked or used upon any lot, and which is visible from a public right-of-way, excepting a company identification sign which is affixed to a vehicle regularly operated in the pursuance of day-to-day business or activity of an enterprise. (Ord. 2012-4067. Passed 10-1-12.)

1295.05 SIGN PERMIT PROCESS (TO MODIFY OR ERECT NEW SIGNS).

(a) Signs allowed in a specific zoning district shall be erected, installed, or created only in accordance with a duly issued and valid zoning sign permit from the Zoning Inspector. Such permits shall be issued only in accordance with the following requirements and procedures:

- (1) Applications shall be made in writing to the Zoning Inspector on forms prescribed and provided by the City and shall contain the applicable information requested on that form and accompanying sign specification sheet. An application for construction, creation, or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawings to show the dimension, design, structure, and location of each particular sign, to the extent that such details are not contained on a Master Sign Plan then in effect for the zone lot. One application and permit may include multiple signs on the same zone lot.
- Application Processing. Upon the filing of a completed application for a sign permit and the payment of the required fee, the Zoning Inspector shall examine the plans, specifications and other data submitted and the premises on which the sign is to be erected. If it shall appear that the sign will be in compliance with all the requirements of this Code, the Zoning Inspector shall then, within thirty (30) days, issue a permit for the erection of the proposed sign. The issuance of a permit shall not excuse the applicant from conforming to the other laws and ordinances of the City or sign master-planning provisions.
- Post Installation Inspection. The Zoning Inspector shall cause an inspection (3) for the zone lot for which each permit for a new sign or for modification of an existing sign is issued during the sixth month after the issuance of such permit or at such earlier date as the owner may request. If the construction is not substantially complete at the time of inspection, the permit shall lapse and become void. If the construction is complete and in full compliance with this Code and with the Building and Electrical Codes, the Zoning Inspector shall document completion in the permit file. If the construction is substantially complete but not in full compliance with this Code and other applicable codes, the Zoning Inspector shall give the owner or applicant notice of the deficiencies and shall allow an additional 30 days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse. If the construction is then complete, the Zoning Inspector shall document completion in the permit file.
- (b) <u>Sign Permits Continuing, Duration and Assignment.</u> The owner of a zone lot containing signs requiring a permit under this Code shall at all times maintain in force a sign permit for such property. Sign permits shall be issued for individual zone lots, notwithstanding the fact that a particular zone lot may be included with other zone lots in a Master Sign Plan.

- (1) A sign permit shall be automatically issued by the Zoning Inspector covering the period from the date of the inspection of the completed sign installation, construction, or modification and shall continue in force unless otherwise limited or specified in this Code.
- Assignment of Sign Permits. A current and valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises, subject only to filing such application as the Zoning Inspector may require and paying any applicable fee. The assignment shall be accomplished by filing and shall not require approval. (Ord. 2012-4067. Passed 10-1-12.)

1295.06 EXEMPT SIGNS (NO PERMIT REQUIRED).

The following types of signs may be erected and maintained without permits, providing such signs comply with the general requirements of this Code and other conditions specifically imposed by all other regulations.

- (a) Exempt Wall Mounted Signs; those that are exempt from requirements to have a permit none-the-less, if wall mounted, shall be limited to 4 such signs per buildings and regardless of the street on which they face, shall be limited to six (6) square feet per sign.
- (b) Exempt Window Signs: Signs that are exempt from requirements to have a permit, if displayed in a window, shall none-the-less be limited in the aggregate of all signs (exempt and non-exempt), displayed in windows shall be no more than 25% of the surface of the window unit where displayed. In the R-residential districts, illuminated signs in windows are not exempt from permits.
- (c) <u>Signs Which Are Not Oriented to or Intended to Be Legible from a Street or Other Private Property</u>. For example, menu boards, fuel pump instructions, accepted payment insignias, etc.
- (d) <u>Signs Inside a Building.</u> However, strobe lights visible beyond a property line are not exempt.
- (e) Any political sign, sign expressing a personal viewpoint, work of art or religious symbol and that does not display a commercial message.
- (f) <u>Historical Markers, Tablets and Statues, Memorial Signs and Plaques;</u> names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel or similar material; and emblems installed by governmental agencies, religious or nonprofit organizations. Signs of these types shall not exceed six (6) square feet.
- (g) Flags and Insignia of U.S., Ohio, or Local Government. These flags may be grouped with up to two non-governmental flags displaying purely ornamental or name of business information.
- (h) Non-illuminated "For Sale", "For Rent": and real estate signs and signs of similar nature, concerning the premises upon which the sign is located. Up to two (2) such signs, spaced at least 100 feet apart, are allowed per lot, each not exceeding ten (10) square feet, set back at least ten (10) feet from all property and public right-of-way lines or less than half the distance between the primary structure and the public right-of-way line, whichever is less restrictive. (see Prohibitions, Section 1295.04(i).)

- (i) Open House Signs: Signs promoting or directing to an open house for property that is available for sale, rent or lease, within the City of Pataskala, provided that only three such signs for each open house. Open house signs shall be installed not more than 72 hours immediately preceding the open house and removed no later than the day following conclusion of the open house. Such signs shall not exceed 6 square feet and must be located outside the public right-of-way. They may not be located within road medians. No such signs will be exempt from permits, fees and other standards if advertising property or open houses outside of the City Limits.
- (j) On-premise Directional Signs; for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits and similar signs, not exceeding two (2) square feet per face and three (3) feet in height for a development or complex. Business names, logos, and personal names shall be allowed, excluding advertising messages. Variations to the size and height requirements for on-premises directional signs may be approved by the Planning and Zoning Commission as part of a Sign Master Plan or if approved as part of the site development plan.
- (k) <u>Non-illuminated Warning Signs:</u> also announcing private drive, posted or no trespassing signs, not exceeding two (2) square feet per face.
- (l) Address Numbers: Number and name plates identifying residents or businesses, when mounted on house, window or door transoms, apartment or mailbox, not exceeding two (2) square feet in area. Address numbers are recommended to be at least 4 inches in height or greater if required by the Ohio Fire Code. Address numbers of less than 2 SF in area will not count toward the maximum building wall or window sign standards. All locations are encouraged (new builds must comply with Part 11, Title One, Subdivision Regulations) to prominently display address numbers. See also Section 1205.15 Sign Measurements for address numbers on other signs.
- (m) <u>Lawn Signs Identifying Residents</u>; with no more than two faces and not exceeding two (2) square feet per face. Such signs are to be non-illuminated except by a light which is an integral part of a lamp post if used as a support, with no advertising message thereon.
- (n) Farm Signs, Free-standing and Permanently Affixed; denoting the name and address of occupants, denoting advertising for produce or merchandise grown on such farms, and denoting membership or organizations not to exceed 25 square feet of sign face area per farm. The exemption also includes graphics of historic vernacular, such as name of owner or builder or year constructed or painted onto sides of barns or set into roof tiles.
- (o) <u>Signs for a Roadside Stands</u>; i.e. selling agricultural produce in season, providing that such signs do not exceed a total of thirty-two (32) square feet and are set back beyond at least 10 feet from the edge of the public right-of-way and limited to two (2) temporary signs.
- (p) Window Signs and Posters: the combined area of all window signs and posters not exceeding sixteen (16) square feet or twenty-five (25) percent of the window surface of a single wall opening on which the sign(s) is displayed, whichever is less. These shall be temporary and non-illuminated. These shall include notices required to be on premises, such as "no smoking" or "no firearms permitted".
- (q) <u>Lighted "Open/Closed" Signs</u> in windows shall be limited to a single such sign per establishment and shall not exceed two (2) square feet in size. This shall count as part of the total window graphics size limit.

- (r) <u>Holiday Decorations:</u> including lighting, customarily associated with any national, local, or religious holiday are exempt from the provisions of this Code and may be displayed in any zoning district without a permit for a period not exceeding sixty (60) days for each holiday in any one year. The time restriction does not apply to any establishment whose primary product is holiday merchandise.
- (s) Integral Graphics; or attached price signs on gasoline pumps at gasoline stations.
- (t) <u>Decals</u>; used to reference available financial services (e.g. credit or bank cards) when not exceeding 1 square foot in total display area per business.
- (u) Political Posters, Banners, Promotional Devices and Similar Yard Signs: not exceeding six (6) square feet per side, except along routes where the posted legal speed is 45 miles per hour, or greater which shall be permitted to have a maximum of sixteen (16) square feet per side, providing:
 - (1) Placement shall not exceed thirty (30) days at one time. New or reconditioned signs with the same or similar political message may be reinstalled for sequential 30 day periods.
 - (2) The names and addresses of the sponsor and the person responsible for the sign are identified on the sign.
 - (3) No signs may be attached to any trees, shrubs, bushes, traffic control devices, utility poles, historical markers or placed on private property without the consent of the property owner, or the consent of the applicable utility company or City or agency owning and operating the traffic control devices, bushes, etc.
 - (4) No signs are located in the right-of-way, except for the provisions in Section 1295.07.
- (v) <u>Architectural Features</u>; such as those that are part of the building or part of a freestanding structure are not considered signs and are thus exempt from these regulations. Architectural features include any construction attending to, but not an integral part of a sign, and which may consist of landscape or building or structural forms that enhance the site or building in general.
- (w) Signs Advertising the Sale of Personal Property: such as garage, yard, porch or moving sale may only be displayed if a Garage Sale Permit has been approved by the City as provided for in Section 717.02 of the City Codified Ordinances. Such signs are limited to six (6) square feet in size. Garage sale signs shall be installed not more than 72 Hours (per Section 717.03(c)(2)) immediately preceding the opening of the sale and removed no later than the day) following conclusion of the sale. Such signs shall not exceed 6 square feet and must be located outside the public right-of-way. They may not be located within road medians. No such signs will be exempt from penalties, fees and other standards if advertising any retail goods, or for garage sales located outside of the City Limits. Signs not complying with these location or time restrictions will be subject to removal if in the public right-of-way, and will be available for retrieval from the dumpster area at the rear of the City Administration Building until the next regular waste pick-up date. (Ord. 2012-4067. Passed 10-1-12.)

1295.07 SIGNS FOR PUBLIC AND SEMI-PUBLIC PURPOSES.

No signs shall be allowed in the public right-of-way, except for the following:

(a) Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic;

- (b) Bus stop signs erected by a public transit company or public school transportation department;
- (c) Informational signs of a public utility regarding its poles, lines, pipes, or facilities; and
- (d) Awning, projecting, and suspended signs projecting over a public right-of way in conformity with other provisions of this chapter.
- (e) <u>Emergency Signs.</u> Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.
- (f) Other Signs Forfeited. Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such sign the full costs of removal and disposal of such sign.

 (Ord. 2012-4067. Passed 10-1-12.)

1295.08 TEMPORARY SIGNS.

<u>Temporary Signs (Private Property).</u> Temporary signs on private property shall be allowed only upon the issuance of a Temporary Sign Permit, which shall be subject to the following requirements:

- (a) Temporary Signs-Signs with Changeable Copy, Including Chalk Board Styles and Signs Without Capacity to Change Copy or Design Features. Such signs are intended for re-use for a variety of announcements throughout the marketing year. Up to three of these signs shall be allowed for a period of 365 days per year on 1 sign permit. Only 1 sign may be displayed at a property at a time. Written permission must be obtained from the property owner and signs are permitted only in "qualifying" districts as set forth herein.
 - (1) New business temporary signs and banners.
 - A. A new business, or a business in a new location, awaiting installation of a permanent sign, may have a permit valid for 60 consecutive calendar days to utilize a temporary sign or portable sign to accommodate time for installation of a permanent sign, whichever occurs first. Such sign must meet all appropriate construction standards and sign regulations of the City. A separate temporary sign permit for such new business sign shall be required. No fee required.
 - B. A new business, or a business in a new location, may have a permit valid for 60 consecutive calendar days to utilize up to three banners with a total cumulative area not to exceed sixty (60) square feet. Such banners may not be displayed more than thirty (30) days prior to opening, nor more than thirty (30) days after opening of the business. No fee required.
 - (2) <u>Size.</u> Unless otherwise provided for in this section, such signs shall not exceed sixteen (16) square feet per side in the following Zoning Districts (AG, DB, LB, GB, PRO, M-l or PM) nor six (6) square feet per side in the General Sign District.

(3) <u>Illumination.</u> Temporary signs shall not be illuminated, shall be constructed of a durable material and if with commercial messages shall be professional in appearance. As used in this section, professional appearance means a sign which is designed/manufactured by a graphic artist, sign company or recognized art department/organization or in conformity to City's pre-approved sign examples.

(b) Special Provisions-Temporary Signs.

- Temporary Signs and Sandwich Board Signs, (including "A" frame or "I" frame signs), limited to three per business, with a limit of 1 per property, with two additional signs erected on other qualifying properties provided they have written permission of the property owner. They must be removed and secured within each business during nonbusiness hours. No illumination of the signage shall be permitted. Temporary Signs and Sandwich board signs may include those placed upon sidewalks or worn or carried by an individual, typically draped over the shoulders.
- (2) No signs shall be permitted to block or interfere with pedestrian travel on sidewalks, leaving a minimum of three (3) feet of clear travel path.

(3) Community activity signs - temporary:

- A. Public, private, nonprofit and religious organizations that are educational, charitable, cultural, or recreational in their functions may display up to six (6) temporary signs announcing community activities that are open to the general public. One sign may be located at the site of the event.
- B. All off-site community event signs shall be located on private property with the permission of the property owner. Each sign shall be placed at a different site.
- C. Community event signs shall not exceed sixteen (16) square feet per side.
- D. Community event signs shall not be placed in the street right of way or easements.
- E. Community event signs shall not be posted more than fourteen days prior to such activities and must be removed within forty-eight (48) hours after activities are completed as advertised.
- F. Community event signs will have no permit fee but permits must be obtained from the Zon ing Inspector.

G. All sign permits shall indicate the date the permit expires.

(c) Real Estate Development Signs. A non-illuminated, single- or double-sided real estate development sign, including industrial and commercial development, residential subdivision or construction sign denoting the architect, engineer and/or contractor, not exceeding thirty-two (32) square feet per side in the Business Sign District (DB, LB, GB, PRO, M-I or PM zones) nor sixteen (16) square feet per side in the General Sign District, may be erected on property being sold, leased or developed. Such sign shall be set back a minimum of thirty-five (35) feet from the right of way or attached to the building face. Such sign shall be removed upon completion of the project and shall be in place for a period not exceeding two (2) years, renewable for an additional two years, upon filing of a subsequent completed application, re-inspection by the Zoning Inspector, and payment of the appropriate fee.

(d) Model Home Signs: Such signs shall require a permit (and not be exempt from permit as a residential for sale/for lease sign). Such signs shall be limited to eight (8) square feet in size and may not be internally illuminated. Model Home Sign permits are valid for a period not exceeding two (2) years, renewable upon filing a subsequent completed application, re-inspection by the Zoning Inspector, and payment of the appropriate fee. At such time as the model home is converted to a residence or otherwise no longer used to market new home sales, the sign shall be removed. (Ord. 2012-4067. Passed 10-1-12.)

1295.09 GENERAL SIGN STANDARDS.

- Banners Over the Public Right-Of-Way. Banners shall not be permitted to extend over the public right-of-way, except for those installed on special brackets for special community events or promotions, as approved by the City Administrator. Banners must be at a height to not interfere with vehicular or pedestrian traffic, and must not obscure traffic control devices. See also requirements for temporary signs and whether separate temporary sign permits are required.
- <u>Permanent Signs.</u> Within any zoning district, unless otherwise specified, the following permanent signs may be erected, provided however, that this subsection shall not serve to expand the number or area of signs otherwise allowed, and pursuant to the following.

Areas of special character. The process for Planning and zoning

Commission Design Review is in Section 1295.14.

Non-Commercially Zoned Districts with Commercial Signs. Unless otherwise specified, the following permanent sign provisions shall apply to non-residential uses in non-commercial zoning districts (i.e. AG-agricultural) R-residential, or whether by non-conformity or permitted non-residential use (See also Historic Old Village Center special regulations)

The total number of signs requiring permits on a single lot 1. shall not exceed one (1) which may be free-standing,

excepting sign master-planned development.

2. The total cumulative area of all signs requiring permits on such lot shall not exceed twenty-four (24) square feet, excepting wall signs for multiple tenants/units.

3. One wall or projecting sign, not to exceed ten (10) square feet per sign, shall be permitted for each separate business

unit in the development or building.

4. One (1) on-premise sign, either free-standing or attached, in connection with any residentially used building in any district also zoned or used for permitted professional offices or home occupations, (see below for additional requirements for Historic Old Village Center) not exceeding two (2) square feet total area if located less than 15 feet from the public right of way, or six (6) square feet total area if located 15 feet or more feet from the public right-of-way. Such signs shall be limited to name, street address and/or vocation. Ilumination shall not produce a direct glare beyond the limits of the property line and shall be mounted on the sign and directed downward.

B. Historic Old Village Center. See also Section 1295.14(a)(9). In the Designated Historic Old Village Center (Old Pataskala) such professional office or home occupations in buildings originally designed as residential, signs shall be limited to ground signs or wall signs not exceeding 16 square feet per side, or hanging (cantilever) signs of not more than 4 feet in height, and not more than 10 square feet per side, and shall be at least 2 feet from the

public right-of-way.

In the Historic Old Village Center new signs and their respective support structures (if free standing) shall be constructed of durable natural materials, or materials natural in appearance, such as, real or simulated carved Redwood or Redwood panels, or masonry such as brick, granite, stone, stucco, decorative block or cementitious products which may include inlay sign panels of non-reflective backgrounds. The acceptability of the proposed material in meeting this standard will be determined by the Zoning Inspector. Such signs may be illuminated by exterior source lighting projected onto the sign face.

C. Pataskala Corporate Park. See also Section 1295.14(a)(10).

The Corporate Park should have a unified image at the entrances (gateways) to the Park at Broad Street and Refugee Road, the theme of which shall be carried through at all new street signs and other such public signs along the road now known as Etna Parkway. The Corporate Park gateway signs shall be exempt from underlying size requirements, however, should conform to recommended lighting as per Business Sign District standards, unless otherwise approved by the Planning and Zoning Commission. The gateway signs are expected to be large scale, highly professional, and greatly enhanced by landscaping and structural features.

2. Each development unit (i.e. any tract developed by a single developer, but which may include multiple buildings and multiple tenants) may have its own Master Sign Plan that governs all signage within that development unit and which will be submitted for review by the Planning and Zoning

Commission.

D. Public Cultural Institutions. Signs or bulletin boards customarily incident to places of worship, libraries, museums, social clubs or societies, may be erected on the premises of such institutions. One (1) such sign or bulletin board not exceeding twenty-four (24) square feet may be erected if in any R (Residential,) AG, or DB zoning district. If located in any other Business zoning district (LB, GB, M-1, PM, PRO, PCD and PID) the same size, location and manner requirements for all signs in that zone shall apply.

(2) <u>Business Sign District.</u> (Business Sign District includes GB, LB, PRO, M-I, PM, PCD and PIDs) (DB districts are governed in Historic Old Village Center in subsections (b)(1)A. and (b)(1)B.) Unless otherwise specified, the

following permanent sign provisions shall apply:

- A. The total cumulative area of all signs permitted on any lot shall be two (2) square feet of sign area per lineal foot of building front. A total sign area of thirty-two (32) square feet shall be permitted on any lot regardless of building frontage.
- B. One sign of the following type: wall sign, awning or canopy sign, shall be permitted for each separated business unit, not to exceed 32 square feet. Projected signs are permitted but limited to 10 square feet and at a minimum of 7 feet 6 inches above the walkway.
- C. Freestanding ground signs or cantilever signs shall be no greater than 32 square feet as measured according to Section 1205.15 and no greater than 10 feet in height, subject to the total cumulative area limits in subsection (b)(2)A. hereof, or the bonuses described in subsection (b)(2)C.1., 2., 3., 4., 5. and 6. and located at least 10 feet from the road right of way.
- D. The total number of permitted signs on a single business lot shall not exceed two (2) of which only one (1) may be free-standing, excepting sign master-planned developments or the following special circumstances:
 - 1. Sign Bonuses for Large Building Setbacks. The maximum allowable area for a building sign may be increased by 25% for each 100 feet or fraction thereof of building setback when the principal building is located more than 100 feet from the principal street on which the building is located and the building is visible from the street, not to exceed 200% of the maximum allowable area.
 - 2. Signs for Side and Rear Entrances. The maximum allowable number and area for building signs shall be increased beyond the allowable area set forth in subsection (b)(2)A. hereof in compliance with the following:
 - a. One additional sign and additional sign area shall be permitted when a building has a second entrance on the building side or rear. The increased sign area for each side or rear building frontage with an entrance shall be fifty percent (50%) of the sign area permitted for the primary frontage, provided that the additional sign area is utilized only on the secondary building side or rear entrances.
 - 3. Signs On Lots with Multiple Public Street Frontages. For lots that have frontage on multiple public streets, each street frontage shall be calculated separately. The allowable sign area permitted by this Section may be distributed to one or more freestanding sign(s) for each full increment of 250 feet of lot frontage. The total area of all freestanding signs shall comply with subsection (b)(2)D.2.a. hereof. Two signs may be aggregated into a single sign provided that the area of any freestanding sign face shall not exceed 175 percent (175%) of the maximum area permitted for a single sign.

4. Multi-Occupant (Non-Residential) Complexes. When a freestanding sign is permitted on a site that has more than one occupant, it is the property owner's responsibility to determine if the sign area shall be devoted to identification of the building(s) complex name, the anchor occupant, all occupants, or some combination thereof. If individual sign panels are used for each tenant, the design of the sign as a total unit shall be harmonious, through the use of identical or complementary color schemes, fonts or graphics. The separate sign panels shall be framed in a material and color that coordinates or enhances the overall sign structure. The street address shall be prominently displayed as part of the overall design.

5. Additional Freestanding Signs for Large Lots.

a. The number of freestanding signs on large lots may be increased as follows. The allowable sign area permitted by this Section may be distributed to one or more freestanding sign(s) for each full increment of 250 feet of lot frontage. (For example, a lot with 500 feet of frontage would be permitted to have two (2) freestanding signs-a maximum size of 32 SF each.)

b. Minimum Separation of Freestanding Signs. Freestanding signs on the same lot shall be separated by a minimum of 250 feet, as measured along the street right-of-way line. For corner lots, both sides of the intersection shall be measured continuously in measuring spacing.

6. Additional Wall Sign Area for Multiple Story Buildings. Additional building wall sign area is permitted on each of the building's primary and secondary frontages according to the following:

- a. For a building with two (2) floors the permitted sign area may increase by 32 square feet for each eligible wall.
- b. This additional permitted sign area may be increased by 15 square feet for each additional building floor in height.
- c. The sign must be placed at the height for which the bonus has been granted. For example, a three story building that is 50 feet wide at its front would qualify for a sign of 147 square feel if mounled at the third story level (47 square fool sign bonus plus the 100 square foot base).

(3) Wall signs.

A. Wall signs shall not extend beyond the ends or over the top of the walls to which they are attached. They shall not obscure architectural details of the building and may fill the area designed for signage such as lintel bands, friezes or spandrels over windows, entrances or across the retail facade. Mounting a sign behind an historic transom window so that it shows through the window, and avoids obscuring the window with an external mount, will be counted as a wall sign.

- B. Wall signs shall not extend more than fifteen (15) inches from the face of the buildings to which they are attached.
- C. Any part of a sign extending over pedestrian traffic areas shall have a vertical minimum clearance of seven (7) feet, six (6) inches.

(4) <u>Free-standing signs.</u>

- A. All free-standing signs shall be set back a minimum of ten (10) feet from the right of way, except for temporary signs.
- B. If for any reason the right of way is changed at some future date, any freestanding sign made nonconforming thereby should be encouraged to conform with the minimum setback requirements to the extent possible upon changes to the sign. Modification of the sign so that it conforms with the currently applicable code, requires a permit, but the fee will be waived.
- C. No free-standing sign shall be more than ten (10) feet in height above road level.
- D. No free-standing sign shall extend over or into the public right-of-way, public pedestrian walkway or public driveway, nor shall it overhang the property lines.
- E. No sign shall impede visibility in the sight triangle.

(5) <u>Awning signs.</u>

- A. No sign shall project from an awning.
- B. Awning graphics may be painted or affixed flat to the surface of the front or sides of the awning.
- C. No awning sign shall be internally illuminated.
- Identification signs at entrances to town. Free-standing group identification signs announcing the names of churches, social organizations, and the time and place of meetings of civic clubs shall be permitted at the major entrances of the City. Additionally, free-standing identification signs announcing the name of the City, or governmental purpose, may also be pennitted at the major entrances of the City. Such free-standing monument signs shall not exceed twenty feet in height or fifty square feet in area. Any such sign shall require a sign permit. Groupings of signs along the major entrance routes to the City shall be designed as an integrated unit, where possible, and shall be landscaped. These signs may be located within a public right-of-way provided approval is granted by the Council and the Street Department.

(7) "OPEN" flags.

- A. In any Business Sign Districts (i.e: DB, GB, LB, PRO, M-I, PM), and in AG zoning, one non-illuminated "OPEN" flag may be displayed for each separate business unit, in connection with commercial promotion. No name, logo or lettering other than the word "OPEN" may be displayed on such signs. OPEN flags may be displayed at the building during business hours and must be displayed at the building entrance. OPEN flags shall be no more than three (3) feet in height and six (6) feet in length. Flag colors are limited to non-fluorescent colors.
- B. Surface area of OPEN flags in temporary use shall not be deducted from the total cumulative area permitted on the lot.
- C. No permit shall be required for an OPEN flag.

- (8) Permanent subdivision identification signs. No more than one such sign shall be permitted at each entry to each subdivision. Such signs shall be limited to a maximum height of 6'-0" feet, and the combined area of the signs shall not exceed a total of thirty-two (32) square feet and shall be set back at least ten (10) feet outside of the right-of-way, or as necessary to meet sight distance requirements, of all streets. Such signs shall be limited to monument style signs or graphics only, including by placement on walls, fences, entrance columns or similar architectural or landscaping features used to denote the entrance to the subdivision. Subdivision Identification signs may be illuminated by either exterior lighting projected onto the sign face, or by use of LED backlit but opaque, raised or reverse cut, dimensional letters against an unlit background.
- (9) Multiple-dwelling or apartment developments. One (1) ground sign identifying the name of the development, located at each entrance of the development, not exceeding thirty-two (32) square feet and 6 feet in height. Such signs shall be located at least ten (10) feet outside of the right-of-way. Such identification sign shall be illuminated only by exterior lighting projected onto the sign face or by use of LED backlit but opaque, raised or reverse cut, dimensional letters against an unlit background.
- (10) Window signs.
 - A. Ground Floor Occupants. Notwithstanding the permitted area set forth in Section 1295.06(b) and (p), a window sign shall not exceed twenty-five percent (25%) of the total glass area of the ground floor windows.
 - B. Upper Story Occupants. For a multi-story building, each occupant above the ground floor shall be permitted one permanent sign to be placed in a window of the occupant's space, not to exceed 25 percent of the area of the window in which the sign is placed, however, for all upper story occupants, at least six (6) square feet of window sign will be permitted. These signs shall be in addition to the maximum allowable area for building signs.
- (11) Alleys and intra-block areas.
 - A. Alleyways, pedestrian paseos, and intra-block areas without direct access to thoroughfares, as might occur in an Historic Village Center. Detailed, smaller scale signs are more appropriate. Store entryways are appropriate locations for signs in these areas. Windows along the alleyway also provide locations for signs, especially neon, which would draw attention to the business at night. Hand-carved wooden signs or signs cut out of metal are examples of encouraged styles because of the ability to incorporate a high degree of detail. The "hand-crafted" look for signs in alleys and intra-block areas is encouraged.
 - B. Tenant directory signs are allowed as wall mounted or freestanding signs for businesses located off of alleys, courtyards, arcades, and walls that do not have street frontage. These would locate on or near the building opening or passageway, so long as they do not interfere with pedestrian travel on the adjacent sidewalks. (Ord. 2012-4067. Passed 10-1-12.)

1295.10 ILLUMINATED SIGNS.

- (a) <u>Purpose</u>. The purpose of this section is to permit the installation and operation of illuminated signs within the City, to provide information to the general public in a legible format, to aid in the effective advertising of businesses, and to prevent the opportunity for nuisance effects in areas of land use transitions from business to residential or institutional.
- (b) <u>General Provisions.</u> Illuminated signs shall be permitted only in the Business Sign District (i.e. areas zoned DB, LB, GB, PRO, M-I or PM), subject to any additional provisions of designated Areas of Special Character or Overlay Districts.
 - (1) Cabinet Signs: Internally illuminated cabinet signs of translucent materials in which the entire sign face glows are not permitted. When cabinet signs are proposed, the permitted forms of illumination are as follows: the background field is required to be opaque so that only the lettering appears illuminated (e.g., routed or push-through lettering/graphics).
 - (2) Permitted forms of illumination include indirect spot lights showing onto the sign face, such as "goose neck" lamps or ground mounted spot lights, LED or neon back-lighted signs with opaque, reverse channel letters, neon back-lighted signs with dimensional translucent letters, and signs with illuminated open-face, channel letters.
 - (3) Exposed neon/LED tube-script, or outlines of building or sign features are permitted if approved by the Planning and Zoning Commission. Illuminated signs shall conform to all other applicable provisions of the City sign regulations with respect to design, placement, presentation and other regulated features.
 - Only one internally illuminated sign shall be permitted per physically separate business unit within a common building, excluding an additional development directory board sign if approved as part of a master sign plan.
 - (5) One monument style internally-illuminated sign per establishment of free standing businesses shall be permitted per lot, not exceeding 32 square feet per face on a double-faced sign and a maximum height of 10 feet above the centerline grade of the road. Establishments that are part of a larger retail or commerce center shall conform to the master sign plan for the development.
 - (6) No internally illuminated sign may be erected within one hundred (100) feet of any residential zone (R-residential and AG zones) within the City. This does not apply to planned or intentionally mixed use developments in which residential units are located on upper floors over commercial establishments.
 - (7) Changeable copy signs.
 - A. General Standards.
 - 1. Changeable copy signs may be installed only on wall or monument style signs and must be completely framed by the wall or monument structure and colors must coordinate with the overall sign design.
 - 2. Changeable copy signs are not permitted to be placed upon nonconforming pole signs.
 - 3. The changeable copy sign face is limited to 30% of the sign face, or 24 square feet, whichever is less.

- B. Electronic Message Center Signs (EMC).
 - 1. Only one (1) EMC sign is permitted per business or zoning lot, whichever is fewer.
 - 2. The applicant for an EMC sign must warrant that the sign will not interfere with emergency vehicle transponders that regulate traffic signals. Any sign found to interfere with these signals constitute a nuisance and shall be ordered to be disabled immediately.
 - 3. The Planning and Zoning Commission may approve additional EMCs or deviations from other regulations of EMC's as part of a master sign plan if deemed appropriate according to the scale and character of the development and if there will be no creation of a nuisance.
 - 4. EMC copy may not change more than once in a three (3) minute period, except for time and temperature only displays (which are limited to 1 change in a 20 second period) and gasoline price displays.
 - 5. EMCs displays are to be static and are not permitted to flash, roll, scroll, employ other motion or animation techniques during display or changing of copy (in the three (3) minute permitted time).
 - 6. All EMCs are limited to dark backgrounds with a single color employed at any one time for any message or image. The color text should coordinate with the overall color scheme of the entire sign structure.
 - 7. All EMCs are required to have automatic dimming capability that adjusts the brightness to the ambient light at all times of day and night. Light emitted shall not be unreasonably bright, shall not create confusion with traffic signals, nor create a hazard to drivers and pedestrians, and should be shielded to prevent noticeable glow around the sign structure. Any light determined by the City to be unreasonably bright or that creates confusion for traffic shall constitute a nuisance and shall be ordered to be disabled immediately until corrected and approved by the Zoning Inspector.

(Ord. 2012-4067. Passed 10-1-12.)

1295.11 EXISTING SIGNS - NON-CONFORMING OR ALTERATIONS TO.

- (a) <u>Non-Conforming Signs.</u> All pre-existing legal signs that become non-conforming as a result of this Code shall be allowed to remain, subject to the following conditions:
 - (1) Rebuilding, enlargement, relocation, extension, replacement or reconstruction of a nonconforming sign is prohibited unless such sign is brought to conformance to within 20% of the standards of this Chapter.

- (2) In the event the use of a nonconforming sign is discontinued for a period of thirty (30) consecutive days, the nonconforming sign shall thereafter conform to the provisions of the zoning district in which it is located or be removed. For the purposes of this Section, the term "discontinued" shall apply to uses which customarily operate on a continuous basis versus a seasonal basis. Seasonal uses shall be subject to a twelve month period of non-use prior to requiring full compliance with these regulations. Additionally any establishment temporarily closed for repairs or remodeling but intended to reopen shall be permitted the continuing use of a non-conforming sign so long as there is no change to the sign itself as outlined in subsection (a)(1) hereof. Intent will be judged by the Zoning Inspector and Planning Director on such evidence as a signed lease or option, building permits applied for, or other such documents indicating a firm commitment to the project.
- (3) A nonconforming sign that is destroyed or damaged more than fifty (50) percent of its net worth may not be reconstructed except in accordance with the provisions of this Section. Within two (2) months of the destruction, such sign may be rebuilt to within 20% of the current standards of height and size of this Chapter, and must still meet the applicable setback and lighting provisions. Such sign not replaced within two (2) months must be reconstructed in conformance with this Section. The owner may appeal to the Zoning Inspector for an extension if evidence is provided that either an insurance settlement cannot be attained within that period, or if the sign builder cannot construct the sign within that period; but not if the delay is a result of failure to act in a timely manner by the sign owner.
- (4) A non-conforming sign must be brought up to conformance with this Code upon any change in the use of the property (uses as according to the first three (3) digits of the NAICS Matrix, established in Chapter 1265 of the Pataskala Zoning Code) for which such property was intended at the time this chapter was enacted.
- (5) Upon alterations to the existing non-conforming sign, the following regulations shall apply:
 - A. Structural. No display sign shall hereafter be structurally altered, rebuilt, enlarged, extended, or relocated except in conformity with the Sign Ordinance, except as provided above.
 - B. Normal Maintenance. Normal Maintenance such as repainting or message replacement for the same enterprise as the original within thirty (30) days of prior use, which does not require modification of the support structures for freestanding signs shall be allowed.
 - C. Historic Signs. The Planning and Zoning Commission may, as it deems appropriate, grant exceptions to these standards whenever a sign, or the sign together with its supporting structure, has been designated as a historic landmark either by provision by City Council, the West Licking Historical Society, the State Historic Preservation Officer or by listing on the National Register of Historic Places.

- (b) Removal of Signs. Any sign existing on or after the effective date of this Code, whether in conformance with this Code or not, which advertises a business no longer conducted or product no longer sold on the premises upon which such sign is located, shall be removed or obscured within thiriy (30) days. This does not include those businesses temporarily closed for repairs or remodeling. Any nonconforming sign that is not reused to advertise a subsequent business of the same use, established within sixty (60) days shall be removed or brought into full compliance with this Code; but subject to the limitations of subsection (a)(2) through (5) hereof.
 - (1) Removal of dangerous signs.
 - If the Zoning Inspector shall find that any sign regulated in this Code is abandoned, unsafe or insecure, the Inspector shall give written notice to the named owner of the land upon which it is located. The owner shall remove or repair the sign within thirty (30) days from the date of the violation notice. Failure to remove or repair such sign shall be considered a violation of this provision. The permit issued for such sign found to be in violation shall be revoked.
 - B. All signs prohibited in this section relating to obstruction of view at street intersections; all illuminated signs that are erected in such a location that a traffic signal light is in a direct line between the sign and oncoming traffic, and any other signs that are unsafe or dilapidated shall conform to the provisions of this Code either by removal or reconstruction, whichever applies, within thirty (30) days after the owner of such sign is notified for the violation.
 - C. All signs that employ a lighting or control mechanism which causes radio, radar or television interference; any sign so erected, constructed or maintained as to obstruct or be attached to any fire escape, window, door or opening used as a means of egress or ingress or for firefighting purposes or so placed as to interfere with any opening required for light or ventilation shall constitute a nuisance and shall be ordered to be removed immediately.
 - (2) Note: In order to provide an incentive for removal of nonconforming signs, there will be no fees for sign permit where a non-conforming sign is removed and replaced by a sign fully conforming with these regulations. (Ord. 2012-4067. Passed 10-1-12.)

1295.12 CONSTRUCTION STANDARDS.

This section provides guidance and standards for construction of signs requiring permits and shall serve as guidance for the construction of exempt signs. It identifies the specifications needed so that signs are constructed to ensure the community's safety.

- (a) All permanent signs installed after the effective date of this Code shall have legible identification attached to the sign giving the sign permit number.
- (b) The design of all sign structure members and foundation shall conform to the requirements of the Ohio Commercial Building Code relative to allowable stresses, materials and engineering standards. Loads, both vertical and horizontal, shall not produce stresses exceeding those specified in the Building Code, and material construction shall be of the quality and grade required by this section and/or by the Building Code.
- (c) All signs, including wall-mounted and projecting signs, shall be securely anchored and shall not be designed to spin or move by mechanical means (this does not apply to movement caused by wind (for example of a cantilever or projecting wall sign), so long as there is no danger of detachment of the sign.

- (d) All signs, sign finishes, supports and electric work shall be kept clean, neatly painted, and free from all hazards, such as, but not limited to, faulty wiring and loose supports, braces, guys, and/or anchors.
- (e) All projecting, free-standing or wall signs shall employ acceptable safety material and shall not constitute a hazard to pedestrian travel or the general public.
- (f) All signs shall not conflict with the Manual on Uniform Traffic Control Devices for Streets and Highways (USDOT/FHWA) as applicable. All electrical wiring of signs shall conform to the National Electrical Code.
- (g) The base of all permanent ground signs shall be effectively landscaped with living plant material and maintained in good condition at all times. The minimum landscaped area must extend at least two feet beyond all faces or supporting structures in all directions.
- (h) Sign bases or exposed foundations must be constructed with a finished material. Examples include, but are not limited to brick, stone, faux brick, stone, stucco, flat finish metals, decay resistant wood, or can consist of composites and synthetics that achieve the appearance similar to natural materials as listed above.
- (i) Any lettering smaller than one-half (1/2) inch in size shall be exempt from these requirements. (Ord. 2012-4067. Passed 10-1-12.)

1295.13 SIGN MASTER PLANS DESIGN REVIEW.

- (a) The Planning and Zoning Commission may approve a master sign plan for planned unit developments of any size and for any existing or proposed business center, industrial center, office complex or mixed used developments which are under unified control either by ownership, legal association or leasehold.
- (b) The intent and purpose is to encourage well planned and designed signage within multiple building or multiple use complexes which expresses unification and integration by elements of architectural style, size, color, placement and lighting, while at the same time allowing for reasonable individual business identification. An additional purpose is to encourage the elimination of existing nonconforming signs. The Planning and Zoning Commission may grant a bonus for exceptionally well designed plans of up to one hundred percent (100%) increase in the number of signs and/or fifty percent (50%) increase in the maximum square footage, and/or may permit signs in locations other than normally permitted, based upon a finding that the proposed master sign plan substantially meets the intent and purpose of this Subsection relating to unification and integration of signage, without hindering vehicular or pedestrian traffic.
- (c) Once approved at a public hearing by the Planning and Zoning Commission, all master sign plans shall be recorded with the Licking County Recorder's office and shall constitute a covenant and must be complied with by all owners, proprietors, lessees or assigns, whether current or future. No substantial variation from the plan shall be permitted without the Planning and Zoning Commission's approval.
- (d) Directional signs for the convenience of the general public and for the purpose of directing persons to a business, activity, service, parking or community facility operating within the City of Pataskala may be erected with the permission of the City Services Director, and as part of the Sign Master Plan, providing such signs do not exceed four (4) square feet per face for a doublefaced sign nor total more than two (2) such signs per development. Messages shall be limited to name or identification, arrow or direction, and distance. Advertising messages shall be prohibited. Off-premise directional signs shall be classified as free-standing signs and shall not be placed within 100 feet of another free-standing sign. Illumination is prohibited. Clustering of several directional signs on a single support is encouraged.

- (1) Such signs shall be limited to Major Arterial and Minor Arterial roads as defined in the City Major Thoroughfare Plan. Such signs may be permitted on Collector streets, as defined in the same classification system, within the Business Sign District.
- (2) Such Sign panels may be made of any conventional weather resistant and rigid sign material acceptable to the City Services Director. They shall be fully reflectorized and shall be similar to "Engineering Grade" reflective sheeting with respect to color (day and night), brightness, reflectivity and durability as specified in the latest edition of the Manual on Traffic Control Devices for Streets and Highways.

(3) The panel shall have white legend on a blue background with a 1/2 inch white border. The legend shall be white "Highway Type" letters, except that nationally, regionally or locally known commercial symbols or trademarks, in their customary colors, may be used when applicable.

(4) When in an Area of Special Character, or used internally in a master planned development, the sign colors may be coordinated with the Special Area or development's master plan color scheme provided that such a display does not conflict with standardized traffic control devices and is specifically approved by the Planning and Zoning Commission and City Services Director. International symbols for services may be incorporated as alternates to word messages. All off-premise sign legends are subject to approval by the Planning and Zoning Commission. Sign placement and installation shall be subject to approval by the City Services Director. (Ord. 2012-4067. Passed 10-1-12.)

1295.14 AREAS OF SPECIAL CHARACTER AND CREATIVE SIGNS PERMIT - DESIGN REVIEW. (See Section 1295.09(b)(1), Standards)

- (a) <u>Purpose</u>. It is difficult to adequately regulate all street graphics in a City as diverse as Pataskala. The designation of an area as an Area of Special Character is an incentive to stimulate greater creativity, artistic interest and aesthetic appeal, to integrate the design of street graphics with the architecture, culture, identity and function of the Area of Special Interest. Initially designated Areas of Special Interest include the Historic Old Village Center (below) and the Pataskala Corporate Park. The Council of the City of Pataskala by ordinance and following notice and public hearing, may therefore designate additional Areas of Special Character and outline their specific design guidelines and themes.
 - (1) Zoning Map. The Planning and Zoning Department shall maintain and continually revise a zoning map of the City of Pataskala on which the boundaries of all designated Areas of Special Character shall be noted.
 - (2) Special Regulations. The Planning and Zoning Commission may approve after notice and public hearing, and forward to Council for adoption, a plan of special regulations signage and graphics for any designated or proposed Area of Special Character. The Council of the City of Pataskala, through normal proceedings to amend the Zoning Code, may adopt or modify special regulations for signs and street graphics in Areas of Special Character. Such regulations, if adopted, shall complement, enhance and be consistent with the character of the Area of Special Character.
 - (3) <u>Effect of Special Regulations.</u> Special regulations for Areas of Special Character shall supersede the general regulations for signs and street graphics regardless of whether they are more or less restrictive.

- (4) Scope of Regulation for Areas of Special Character. The special regulations for signs and graphics shall contain visual representations of the lettering, illumination, color, area and height of street graphics and may indicate the areas and buildings where they may be placed and located. The special regulations may incorporate by reference a document containing the visual representation of street graphics in the street graphics plan.
- (5) The Planning and Zoning Commission may approve special regulations for signage and graphics if they are consistent with the purposes of this chapter and the stated theme, vision or character of the Area of Special Character. These regulations shall supersede the general signs standards of this chapter regardless of whether they are more or less restrictive.
- (6) Any owner of a property, or multiple owners of adjacent premises, or one or more occupants of a shopping center or multi-use building, not located in an Area of Special Character, may submit a Creative Sign proposal to the Planning and Zoning Commission that need not comply with some or all the requirements of this chapter if the Planning and Zoning Commission approves of the proposal. This Creative Sign proposal must contain a visual representation of the lettering styles, illumination, colors, size, height, materials, placement, and location of any street graphics proposed for display.
- (7) <u>Standards for approval</u>. The Planning and Zoning Commission may approve Creative Signs Proposal (or Master Sign Plan or graphics for an Area of Special Character) if the signs and street graphics visually represented are:
 - A. Consistent with the purpose of this chapter.
 - B. Compatible with the theme, visual quality, and overall character of the surrounding area or an Area of Special Character, if the street graphics are to be located in such an area.
 - C. Appropriately related in size, shape, materials, lettering, color, illumination, height, location, and character to the function and architectural character of the building, or premises on which they will be displayed, and are compatible with existing adjacent activities. The Planning and Zoning Commission shall base its compatibility determination on the following criteria:
 - 1. The relationship of the scale and placement of the street graphic to the building or premises on which it is to be displayed.
 - 2. The relationship of the colors of the street graphic to the colors of adjacent buildings and nearby street graphics.
 - 3. The similarity or dissimilarity of the street graphic's size and shape to the size and shape of other street graphics in the area.
 - 4. The similarity or dissimilarity of the style of lettering on the street graphic to the style of lettering of nearby street graphics.
 - graphics.

 The compatibility of the type of illuminations, if any, with the type of illumination in the area.
 - 6. The compatibility of the materials used in the construction of the graphic with the materials used in the construction of other street graphics in the area.

- D. Authorized variances. The Planning and Zoning Commission may grant minor variances from the regulations contained in this chapter, including:
 - 1. To permit a setback for a sign that is up to 25% less than the required setback, and
 - 2. To permit the area or height of a sign to be increased by up to 25% more than the maximum height or area allowed.
 - 3. These minor variance may be authorized if the Planning and Zoning Commission finds that a special or unique hardship prevents compliance because of:
 - a. Exceptional narrowness, shallowness, or shape of the premises on which a sign is located, or
 - b. Exceptional topographic conditions or physical features uniquely affect the premises.
 - c. Allegations that the display of a particular sign would be more profitable or that the graphic would be more valuable is not a special or unique hardship as required by this section.
 - d. The variance is consistent with the goals of the comprehensive plan and there are no other reasonable alternatives for displaying a sign that would be permitted per the standards of this code.
- (8) <u>Display of Specially Approved Signs.</u> A premises or occupancy for which a set of special sign regulations has been approved by the Planning and Zoning Commission and City Council, such as those for an Area of Special Character, a creative sign permit or a Master Sign Plan, may only display signs and graphics that comply with the approved plan, which shall supersede and replace the general sign regulations of this chapter.
- (9) The Historic Old Village Center Sign District is bounded by \$R\$ 16 (south side of street only) from Vine Street east to Township Road, south to Mill Street, west to Licking Street, north across Granville east to Spring Street, north to Cedar, east to Vine, and north ending at the south side of \$R\$ 16. These boundaries shall include all properties on either side of all street boundaries other than \$R\$ 16 (Broad Street). See Figure I Attached.
- (10) The Pataskala Corporate Park Sign District shall include all land zoned PM and located south of State Route 16 and East of Mink Street, including both sides of Etna Parkway, except that no signs shall be oriented toward Columbia Road. See Figure II Attached. (Ord. 2012-4067. Passed 10-1-12.)

1295.15 ENFORCEMENT AND REMEDIES.

(a) Review and Appeals. Any person aggrieved by a decision of the Zoning Inspector relative to the provisions of this Code may appeal such decision as provided in Chapter 1211. Any person aggrieved by a decision of the Planning and Zoning Commission relative to the provisions of this Code may appeal such decision as provided in Chapter 1211.

- (b) <u>Violations and Penalties.</u> Any person, firm or corporation, whether as owner, lessee, agent or employee, who proceeds to erect, re-erect, construct or structurally alter any sign without first applying for and obtaining the necessary permit, or who, in any other way, violates any provision of this Code shall be guilty of an offense and receive punishment as established in Section 1209.99. Each day's continuous violation shall constitute a separate additional violation.
 - (1) In case of a violation of this Code, the City and its officers may, in addition to any other remedies specifically conferred by ordinance, institute any appropriate proceedings to prevent unlawful erection, construction, reconstruction, alteration or use of any sign not in compliance with this Code.
 - Any sign, permitted or not, placed within any public right-of-way or placed so as to impede public access, may be considered to be a threat to public safety and may be removed at the direction of the public safety officers or Zoning Inspector.

 (Ord. 2012-4067. Passed 10-1-12.)

Table 1295-1: Examples of Sign Characteristics Permitted by Zoning/ Special District

	Historic Village Centers Special Area	Corporate Park Special Area	GB/LB/DB	PRO	M-1/ PM	All residential "R" zones	AG/ or AG uses
Animation or Mechanical or Electronic Induced Motion/ Pennants/ Inflatable	N	N	N	N	N	N	N
Sandwich Board Signs	P	P	P	N	P	N	P
Changeable copy	P	Р	P	N	Р	N	N
Internal Illumination	N	Р	P	P	Р	N	N
External Illumination	Р	Р	Р	P	P	N	N
Bent "Neon" Tube	Р	Р	P	P	Р	N	N
Electronic Message or Graphic Signs	N	P	Р	P	Р	N	N

N = Not allowed

P = Allowed with Permit

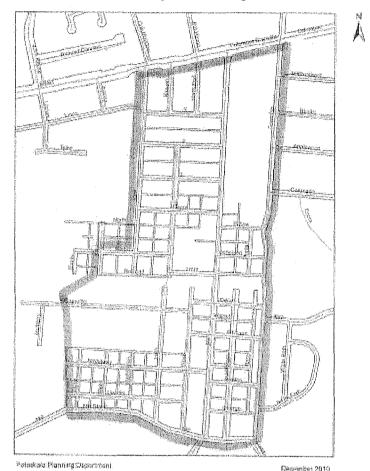
(Ord. 2012-4067. Passed 10-1-12.)

Table 1295-2: Sign Sizes – These standards are subject to change by special provisions of a Master Sign Plan, Creative Sign Plan or Overlay District

SIGN TYPE	SIZE PERMITTED
Apartment Community Marker	Max. 6 ft in height
In Business Developments	Total signage = 2 sf/ linear ft of building front
*each business unit/ wall/canopy or awning	Max. 32 sf
Corporate Park	By P&Z approval
Cultural Facilities & Institutions	24 sf in R zones; Other according to zones
Electronic Message Centers	Lesser of 24 sf or 30% of total sign face
Farm ID Signs	25 sf
For Sale /Rent Sign	10 sf
Historic Markers	6 sf
*House in office zoning or used for home	2 sf if < 15 ft from ROW
occupation	
	6 sf if > 15 ft from ROW
Monument Sign	32 sf/
	10' tall
Open Banners	Up to 3 allowed-up to a total 60 sf
*Old Village Historic- commercial signs	Wall- 16 sf
	1,
	Cantilever – 10 sf /side and 4 ft tall
Political Sign	6 sf; 16 sf if posted speed = or > 45 mph
Real Estate Development	16 sf in an R zone
	32 sf all others
Roadside Markets	32 sf
Special Character Districts	24 sf per lot
Subdivision (Residential) Markers	Max. 6 ft in height
Temporary Sign & Community Activity Sign	16 sf (up to 6 allowed)
Sandwich Board Signs	9 sf
Wall Sign-when permit required	6 sf
Wall Sign-exempt from permit	6 sf –up to 4 allowed
Wall-Projecting Sign	10 sf/ 7.5 ft from ground
Warning/ private drive/ lawn signs	2 sf
Window Signs	25% of window /
	Upper story business 25% up, but at least 6 sf
	Up to 16 sf for Temporary Community Activity Poster

(Ord. 2012-4067. Passed 10-1-12.)

Historic Old Village Center Sign District



2012 Replacement

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CHAPTER 1296 Residential Appearance Standards

1296.03	Purpose. Applicability. Definitions. Architectural diversity. Asphalt dimensional shingles. Chimneys. Driveways.	1296.09 1296.10 1296.11 1296.12 1296.13 1296.14 1296.15	Foundations. Four-sided architecture. Garages. Porches. Roof pitch. Window trim and shutters. Vinyl houses.
1296.07	Finish building materials.	1290.15	vinyi nouses.

1296.01 PURPOSE.

Residential development in the City of Pataskala has a direct effect on the character and livability of the community. Therefore, the City of Pataskala has the responsibility to adopt standards that promote desirable residential development that fits the context and character of the existing community. These standards are designed to increase the quality of neighborhoods, to promote positive architectural appearance within residential areas, to encourage design flexibility and creativity, to establish an interesting, aesthetically pleasing residential environment, and to promote durable quality materials that will allow residential neighborhoods to endure and mature for future generations in the City of Pataskala. The following findings warrant the need for exterior appearance requirements for residential development:

(a) The adopted comprehensive plan recommends promoting high quality standards in building design that is in good scale and harmony with surrounding neighborhoods and buildings, and the natural surroundings.

(b) Providing for compliance with appearance regulations will assist in creating quality development within residential neighborhoods.

(c) Limiting the garage appearance within the front elevation limits the negative visual impact.

(d) A balance of natural and synthetic building materials allows for design creativity and promotes a high-quality development.

(e) Trim around windows completes the appearance on every elevation.

(f) Placing windows, doors, porches and other features on each elevation enhances the visual environment, avoids large areas of blank exterior walls, and contributes to the overall architectural diversity of a neighborhood.

(g) The lack of detailing, architectural features, and trim on elevations detracts from a dwelling and reduces the visual quality of a neighborhood. (Ord. 2019-4355. Passed 2-18-20.)

1296.02 APPLICABILITY.

- (a) These standards shall apply to:
 - (1) The construction of a new house within a Major Subdivision approved following the effective date of this chapter.
 - (2) The addition or alteration of an existing house within a Major Subdivision constructed in compliance with the standards of this chapter.
- (b) These standards are the minimum appearance requirements except as may be specifically approved in a Planned Development District ordinance. Planned Development District proposals shall demonstrate how the proposal addresses the purpose of the residential appearance standards to replace these minimum requirements. In the case of absent, or non-specific requirements in a Planned Development District ordinance, the more restrictive requirement shall apply.
- (c) These standards shall be in addition to all applicable zoning and development requirements of the Pataskala Code. (Ord. 2019-4355. Passed 2-18-20.)

1296.03 DEFINITIONS.

Blank Elevation: An elevation that lacks the minimum required openings and architectural features, such as windows, doors, exterior chimneys, or other similar architectural features.

<u>Cantilevered Chimney:</u> A chimney that projects from the exterior wall and does not have a foundation or extension to the ground.

<u>Chimney:</u> A structure projecting from the exterior wall of a house and enclosing or appearing to enclose a flue that carries off smoke. A chimney may or may not extend vertically to the eaves line or have a foundation/connection to the ground.

<u>Corbel:</u> A build out of one or more courses of brick or stone from the face of a wall, traditionally to form a support for timbers.

<u>Cornice</u>: Overhand of a pitched roof at the eaves line, usually consisting of a facia board, a soffit for a closed cornice, and appropriate moldings.

<u>Direct Vent Outlet:</u> An outlet through an exterior wall associated with the air supply and/or exhaust of a fire burner. It may or may not occur in a projecting box/chimney.

Dormer: A window set vertically in a structure projecting through a sloping roof; also the roofed structure containing that window.

Eaves: The margin or lower part of a roof projecting over a wall.

<u>Elevation:</u> A geometric projection of the front, side, or rear outer surface of a building onto a plane perpendicular to the horizontal; a vertical projection.

Facade: The front, sides, or rear faces of a building.

<u>Fascia:</u> A horizontal piece, such as a board, covering the joint between the top of a wall and the projecting eaves also call a facia board.

<u>Frieze Board:</u> A decorated band along the upper part of an exterior wall. In house construction a horizontal member connecting the top of the siding with the soffit of the cornice. Foundation Cladding: An aesthetic enhancement to the foundation concealing exposed portions with an approved material.

<u>Gable:</u> The vertical triangular end of a building from cornice or eaves to ridge, the similar end of a gambrel roof, the end wall of a building, and/or a triangular part of a structure.

House: For the purposes of this chapter, one, two, and three-family dwelling units.

<u>Major Subdivision:</u> The creation of six or more lots, including the remainder, from the original parcel and/or the creation or extension of any roads or easements of access.

Masonry: Natural or natural-appearing stone or brick.

Plinth: A continuous, usually projecting course of stone or brick forming the base our foundation of a wall.

Projection: Any component of a structure that extends out from the main building.

Quoin: Corner stones that anchor the edge of the building wall or decorative feature to imitate corner stones, which wrap the corner of an elevation and join two abutting walls.

Shed-type Chimney: A chimney that does not extend full height vertically to the eaves line. A shed chimney typically includes a direct vent outlet in the chimney wall.

Soffit: The exposed undersurface of any overhead component of a building.

<u>Stucco:</u> A coarse plaster composed of Portland or masonry cement, sand, and hydrated lime mixed with water and applied in a plastic state to form a hard exterior coating.

<u>Trim:</u> The finished woodwork or similar architectural element used to enhance, border or protect the edges of openings or surfaces, such as windows or doors.

<u>Vinyl Siding Accessories:</u> Exterior design elements that serve to provide more visual interest and complement the primary home design.

Water Table: A projecting brick or stone stringcourse, molding or ledge placed to divert rainwater from a building. (Ord. 2019-4355. Passed 2-18-20.)

1296.04 ARCHITECTURAL DIVERSITY.

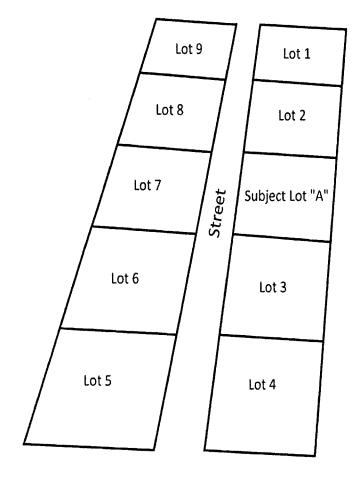
All single-family residential development shall incorporate architectural diversity whereby:

(a) The same house model shall not be directly across the street, and

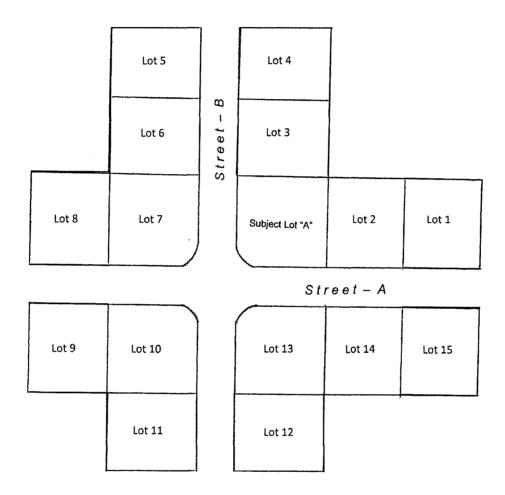
(b) A minimum two lot separation shall be required between the same house model on the same side of the street or diagonal from each other.

Example A: The house model located on Subject Lot "A" cannot occur on lots 1 through 9.

236R



Example B: The house model located on Subject Lot "A" cannot occur on lots 1 through 15.



(Ord. 2019-4355. Passed 2-18-20.)

1296.05 ASPHALT DIMENSIONAL SHINGLES.

Asphalt dimensional shingles shall be a 25-year "true" dimensional shingle. Painted shadows are not permitted. Shingles shall have a minimum weight of 240 pounds per 100 square feet and be installed according to the manufacturer's specifications. (Ord. 2019-4355. Passed 2-18-20.)

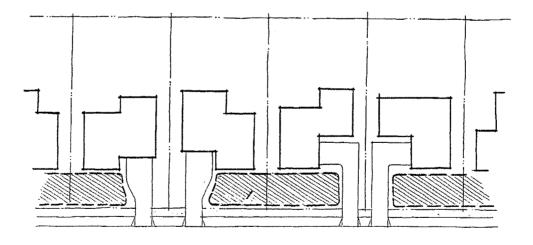
1296.06 CHIMNEYS.

All chimneys shall extend full height from the ground and vertically past the eaves line. Cantilevered and shed-type chimney are prohibited. Chimneys shall be finished in masonry or stucco but need not match the background wall in material or color. (Ord. 2019-4355. Passed 2-18-20.)

1296.07 DRIVEWAYS.

Driveways shall be constructed of concrete, asphalt or brick pavers; however, a similar construction material as an alternative may be approved as part of a Planned Development District ordinance. All driveway aprons shall be constructed of concrete. The maximum driveway width at the right-of-way line shall be 16 feet, not including the apron. Apron curb cuts for straight curbs and the flare for rolled curbs shall be three feet wider than the driveway material on each side. Driveways and curb cuts shall be located not less than three feet from the side lot line. Driveways shall have a maximum grade of 10 percent. Driveways shall be designed to be grouped to increase the amount of open space along the street and assist with the appropriate location of infrastructure to service the house and street trees.

Example C: Grouped driveways increase the amount of open space along the street and assist with the appropriate location of infrastructure to service the house and street trees.



(Ord. 2019-4355. Passed 2-18-20.)

1296.08 FINISH BUILDING MATERIALS.

- (a) Wood board or shake, brick, stone, cultured stone, fibrous cement siding, stucco and vinyl siding are the permitted finish building materials. Asphalt dimensional shingles, natural or simulated slate, tile, standing seam metal, natural or simulated wood shingles or shakes are the permitted roof materials.
- (b) When a change in materials occurs at corners, the change shall occur at the inside of the corner unless the masonry on the street-facing façade extends at least two feet past the outside corner. If a house has a side gable and a material change occurs on the outside corner, or if two different materials are used on the facades of main and upper floors, rather than extending the materials around the corner, a quoin or minimum 5¼-inch wide corner board shall be used along the vertical length of the non-masonry corner. (Ord. 2019-4355. Passed 2-18-20.)

1296.09 FOUNDATIONS.

There shall be no more than twelve inches of exposed foundation walls. If more than twelve inches of exposed foundation wall is exposed, the foundation shall be finished with brick, veneer brick, stone or cultured stone designed by the manufacturer for at grade or below grade installation.

(Ord. 2019-4355. Passed 2-18-20.)

1296.10 FOUR-SIDED ARCHITECTURE.

Each side elevation shall contain at least two design elements per floor and each elevation facing a street or rear elevation shall contain at least three design elements per floor. Blank facades are prohibited for any detached garages. Typical design elements include, but are not limited to, the following:

- (a) Eligible Design Elements.
 - (1) A door of at least seventeen square feet in area.
 - (2) A window of at least six square feet in area.
 - (3) A chimney
 - (4) An articulated gable vent of at least four-square feet in area.
 - (5) Porches, decks, balconies or similar structures.
 - (6) A similar significant permanent architectural feature consistent with the style of the house and purpose of this chapter upon approval of a Planned Development District ordinance.
- (b) Ineligible Design Elements.
 - (1) Side of porches.
 - (2) Rooflines.
 - (3) Water tables.
 - (4) Garage Doors.

(Ord. 2019-4355. Passed 2-18-20.)

1296.11 GARAGES.

Garages may be attached or detached and shall be clearly secondary in character by means of a simplified design compatible with that of the primary structure. All single-family residential developments shall have a mix of front loaded and side loaded, with a minimum of twenty-five percent (25%) of all lots designed for detached or side loaded garages accessed via a driveway adjacent to the side property line. Garages attached via a breezeway shall be considered detached for purposes of this chapter. For corner lots, the garage shall be oriented towards the "lower" designated street classification as determined by the City Administrator or their designee. Garage doors shall be a maximum of nine feet in height. If there is living area above the garage, the maximum height of the roof over the garage shall be thirty-five (35) feet, otherwise the maximum height of the roof over the garage is eighteen (18) feet.

(a) Front Loaded Garages.

- (1) Front loaded garage shall be located a minimum of four feet behind the front line of the livable area of the house. A covered or uncovered porch shall not be considered a livable area of a house.
- (2) Garage doors shall not exceed forty-five percent (45%) of the width of the house frontage. Where more than a standards two-car front loaded garage is provided, the additional garage bay(s) shall be offset from and architecturally designed to appear separate and distinct from the two-car front loaded garage and the garage doors shall not exceed fifty percent (50%) of the width of the house frontage.

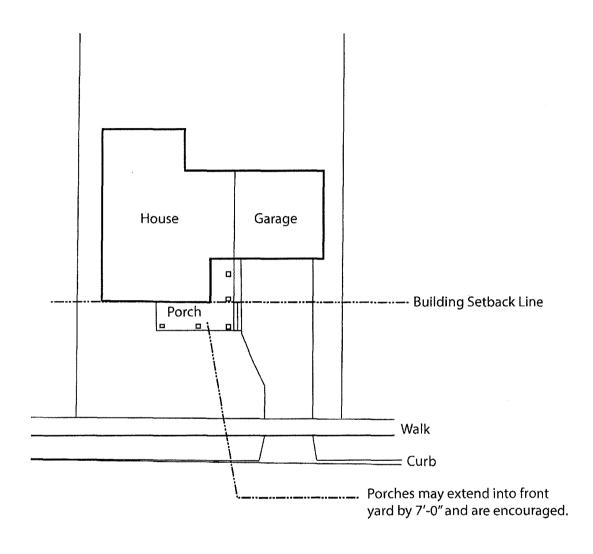
(b) <u>Side Loaded Garages.</u>

- (1) Side loaded garages may be located from an inside court area.
- The garage elevation facing the street shall incorporate design features also found on the front elevation of the house including, but not limited to, windows. (Ord. 2019-4355. Passed 2-18-20.)

1296.12 PORCHES.

Front porches shall be required on every house and shall be a minimum of seven feet in depth and ten feet in width. Front porches may encroach into the established front building setback line by a maximum of seven feet.

Example D: Front porches may encroach into the established front building setback line by a maximum of seven feet.



(Ord. 2019-4355. Passed 2-18-20.)

1296.13 ROOF PITCH.

The main architectural roof of a house must have a minimum 6:12 roof pitch. Dormers, porches, and other similar secondary features may have a minimum 4:12 roof pitch. Eaves and overhangs shall have a minimum width of twelve inches on every elevation. (Ord. 2019-4355. Passed 2-18-20.)

1296.14 WINDOW TRIM AND SHUTTERS.

- (a) Trim is required with all windows on every elevation and shall include either a top and bottom finish of soldier course, rowlock, lintel or sill; or a minimum 3½-inch board around all sides of the window.
- (b) Shutters shall be sized to fully cover the window and shall be louvered, raised or flat paneled or board and batten and made of painted wood, vinyl, painted synthetic, PVC or fibrous cement. (Ord. 2019-4355. Passed 2-18-20.)

1296.15 VINYL HOUSES.

All vinyl materials shall have a minimum of 0.046 inches and have a low gloss finish. All houses consisting of 50 percent or more of vinyl siding shall include complementary accessories and detailing where vinyl siding elevations occur, as follows:

- (a) A detailed main entryway by use of a minimum eight-inch wide three-dimensional door surround system.
- (b) Minimum six-inch wide frieze or facia boards
- (c) Minimum eight-inch wide water table trim board at the foundation.
- (d) At least two accessory types shall occur on each vinyl sided elevation, as follows.
 - (1) Shutters as described pursuant to Section 1296.14
 - (2) Mantels that shall occur above, at a minimum, all windows on vinyl-sided elevations
 - (3) Masonry water table and plinth shall occur along all elevations of a vinyl sided house. The height of this feature shall be at least two feet as measured from grade.
 - (4) Gable vents shall be an articulated decorative gable vent(s) of at least four square feet in area and in at least the front or side of vinyl sided houses. (Ord. 2019-4355. Passed 2-18-20.)

CHAPTER 1297 Swimming Pools

1297.01	Purpose.			1297.04	Zoı	ning p	ermit	requir	ed.

1297.02 Private swimming pools.
1297.03 Community or club swimming pools.

CROSS REFERENCES Swimming pools - see Ohio R.C. Ch. 3749

1297.01 PURPOSE.

This chapter is enacted to provide regulations for the construction and operation of public and private swimming pools. It is applicable to bodies of water used for swimming and/or recreational bathing and is not applicable to storm drainage or detention facilities authorized by the City.

1297.02 PRIVATE SWIMMING POOLS.

- A. A private swimming pool, as regulated herein, shall be any water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen inches below the level of the surrounding land, or an above-ground pool, having a depth of more than thirty inches, designed, used, and maintained for swimming and bathing. Regulations of this section are not applicable to portable swimming pools with a diameter less than 12 feet or with an area of less than 100 square feet.
- B. Requirements: No such swimming pool shall be allowed in any AG or R- district except as an accessory use to a residence or as a private club facility and unless it complies with the following conditions and requirements:

1. Exclusive Private Use: The pool is intended and is to be used solely for the enjoyment of the occupants of the principal building of the property on

which it is located and their guests.

2. Distance Requirements: The pool, including any walks, paved areas, and appurtenances thereto, may be located anywhere on the premises except in required front yards, provided it shall not be located closer than 10 feet to any property line or easement of the property on which located; provided further that pump and filter installations shall be located not closer than 20 feet to any property line.

- 3. Area: The area of the swimming pool, exclusive of decks, walks, and other appurtenances, shall not exceed 10 percent (10%) of the area of the lot or parcel.
- 4. Fencing: The swimming pool, or the entire property on which it is located, shall be so walled or fenced as to prevent uncontrolled access by children from the street or from adjacent properties. Such wall or fence shall not be less than five (5) feet in height, maintained in good condition, and affixed with an operable self-closing gate and lock.
- 5. Lighting: Any lighting used to illuminate the pool area shall be so arranged as to deflect the light away from the adjoining properties.
- 6. Electrical: All electrical appurtenances shall meet the requirements of applicable City-approved Building Codes.

1297.03 COMMUNITY OR CLUB SWIMMING POOLS.

- A. A community or club swimming pool, as regulated herein, shall be any pool constructed by an association of property owners or a private club for use and enjoyment of its members, or any individual or organization for use by the general public for a fee or charge.
- B. Requirements: Community and club swimming pools where allowed as a permitted or conditional use shall comply with the following conditions and requirements:
 - 1. The pool is intended solely for the enjoyment of the members and families and guests of members of the association or club under whose ownership or jurisdiction the pool is operated.
 - 2. The pool and accessory structures thereto, including the areas used by the bathers, shall not be closer than 30 feet to any property line or easement.
 - 3. The swimming pool and all of the area used by the bathers shall be walled or fenced to prevent uncontrolled access by children from the thoroughfare or adjacent properties. Said fence or wall shall not be less than six feet in height and maintained in good condition and locked. Each gate in the fence or wall shall be provided with a secure lock and shall be kept locked at all times when the pool is not in use or under immediate control of a responsible person. All gates shall be self-closing.
 - 4. All lights used for the illumination of the swimming pool and adjacent areas shall be designed, located and installed so as to confine the direct beams thereof to the lot or parcel on which the pool is located.
 - 5. The pool facility meets parking requirements as prescribed in Chapter 1291 of these regulations.
 - 6. Electrical: All electrical appurtenances shall meet the requirements of applicable City-approved Building Codes.

1297.04 ZONING PERMIT REQUIRED.

A zoning permit shall be required for the construction or installation of any private or community swimming pool; The application for the zoning permit shall provide evidence that the pool will be constructed, maintained and/or installed in conformance with the above provisions of this Code, as well as all other applicable ordinances in effect at time of the application.

CHAPTER 1298 Temporary Activities

1298.01 Purpose. 1298.02 Description. 1298.03 Zone and duration. 1298.04 General regulations.

CROSS REFERENCES Garage sales - see BUS. REG. Ch. 717

1298.01 PURPOSE.

This chapter allows short-term and minor deviations from the requirements of the Zoning Code for uses which are truly temporary in nature, will not adversely impact the surrounding area and land uses, and which can be terminated and removed immediately. Temporary uses have no inherent rights within the zone in which they locate.

1298.02 DESCRIPTION.

Temporary activities are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary activities include: temporary buildings, equipment, and materials used in conjunction with construction activities; construction trailers; leasing offices; garage sales; temporary carnivals and fairs; parking lot sales; retail warehouse sales; and seasonal sales such as Christmas tree sales and vegetable stands. There are two categories of temporary activities. First, there are those which are allowed by the zone but do not meet the development standards. Examples include Christmas tree sales and a parking lot sale in a commercial zone. Second, there are temporary activities which if permanent, would not be allowed by the base zone. Examples include church carnivals in residential zones and retail warehouse sales in industrial zones.

1298.03 ZONE AND DURATION.

- A. <u>Residential (R-) zones</u>. The regulations for temporary uses in the R- zones are as follows:
 - 1. Mobile or manufactured home use during construction: Mobile or manufactured homes may be used for a residence while a permanent residence is being constructed. Mobile or manufactured homes may remain on the site until the completion of the construction, or for not more than 2 years, whichever time period is less. The mobile or manufactured home must be removed within 1 month of issuance of certificate of occupancy for the permanent residence. A performance bond or other surety must be posted to ensure removal of the mobile or manufactured home.

- 2. <u>Residential sales offices</u>: Sales offices (not located inside a model home) for subdivisions are allowed at the development site until 80% of the total number of lots for the development are sold. Use of the sales office for sites outside of the project is prohibited.
- 3. Sales:
 - a. Garage sales: Garage sales and other sales for items from the site may occur for no more than three consecutive days on two different occasions during a calendar year.
 - b. Seasonal outdoor sales: Seasonal outdoor sales of plants and produce are allowed twice a year for up to five consecutive weeks each time.
- 4. <u>Fairs, carnivals and other major public gatherings in the R-zones:</u> Fairs, carnivals and other major gatherings are allowed for up to nine consecutive days at a site with an existing institutional use. Two events are allowed per calendar year.
- 5. Show of model homes: The viewing of model homes within a subdivision for a fee is allowed for a period not to exceed one month. Only one showing for a fee is allowed per phase of a subdivision.
- 6. <u>Natural disasters and emergencies</u>: Temporary activities and structures needed as the result of a natural disaster or other health and safety emergencies are allowed for the duration of the emergency.
- 7. <u>Staging areas for public utility installation</u>: Staging areas for public utility improvement projects such as the installation of sewer pipes, water pipes, and road improvements, are subject to the regulations below.
 - a. <u>Length of project</u>: Only projects that last one year or less are allowed as temporary activities. Projects that last over one year are subject to the regulations for permanent uses. Adjustments to the one year time period are prohibited.
 - b. <u>Dust, mud and erosion control</u>: During the project, operational procedures must include steps to reduce dust and mud on the site and to reduce dust and mud on adjacent streets from vehicles entering and leaving the site. During the length of the project, the site must be enclosed or protected in a manner to prevent on-site erosion and to prevent sediment from leaving the site.
 - c. <u>Noise</u>: The project must meet the applicable noise regulations in Chapter 1287.
 - d. <u>Final site condition</u>: At the end of the project, the site must be prepared and seeded with a mixture of at least 50 percent perennial grass to create a low maintenance vegetative ground cover. An exception to this requirement is sites that have paving prior to the start of the project. In these cases the portion of the site that has paving may remain in paving. All other portions of the site must be seeded as provided above. The ground cover or paving must meet all applicable City standard.

- e. <u>Building permit</u>: Prior to the start of the project, a building permit must be obtained from the appropriate authority. Applications for the building permit must contain evidence that the project will comply with the requirements above. If the project will be implemented through a contract with the City, then the evidence of compliance may be shown as specifications in the contract. If the project does not involve a contract with the City, then at a minimum, evidence of compliance must include performance guarantees to guarantee compliance with the requirements in Subsubparagraphs b. Dust, mud, and erosion control, and d. Final site condition, above.
- B. Commercial and Manufacturing (PRO, LB, DB, GB, M-1, and PM) zones. The regulations for temporary uses in the commercial and manufacturing zones are as follows:
 - 1. Parking lot sales: Parking lot sales in zones where outdoor display is not otherwise allowed, are allowed for up to two consecutive weeks at any one time.
 - 2. <u>Seasonal outdoor sales:</u> Seasonal outdoor sales are allowed for up to three months, no more than three times per calendar year.
 - 3. <u>Fairs and carnivals:</u> Fairs and carnivals are allowed for up to two consecutive weeks no more than three times per calendar year.
 - 4. <u>Warehouse sales:</u> In manufacturing zones, retail warehouse sales are allowed for up to one week no more than twice per calendar year.
 - 5. <u>Natural disasters and emergencies:</u> Temporary activities and structures needed as the result of a natural disaster or other health and safety emergencies are allowed for the duration of the emergency.
 - 6. <u>Staging areas for public utility installation</u>: Staging areas for public utility improvement projects such as the installation of sewer pipes, water pipes, and road improvements, are subject to the regulations for the R zones stated in Subparagraph 1298.03A.7.
 - 7. <u>Seasonal outdoor activities:</u> Seasonal outdoor activities are allowed for up to three months, no more than three times per calendar year. Seasonal outdoor activity permits shall only be allowed for public, nonprofit and religious organizations that are educational, charitable, cultural or recreational in their functions. A seasonal outdoor activity permit may be obtained and will be permitted to occur at multiple locations, so long as all locations are indicated on the submitted application.
- C. Time between activities. For subsections A. and B. above, except for manufactured homes, construction trailers, and residential sales offices, the minimum time between temporary activities must be at least one week. (Ord. 2006-3733. Passed 12-18-06.)

1298.04 GENERAL REGULATIONS.

All temporary activities are subject to the regulations listed below.

A. Permanent changes to the site are prohibited.

- B. Temporary parking areas are allowed only during construction on the site. They must be removed within 1 month of issuance of a certificate of occupancy for the construction. The land must be restored to the condition it was in before the development of the temporary parking area unless an alternative development has been approved for the location. A performance bond or other surety must be posted to ensure removal.
- C. Permanent signs are prohibited. All temporary signs (see Section 1295.07A.) associated with the temporary activity must be removed when the activity ends.
- D. Temporary activities may not cause a significant reduction in required off-street parking.
- E. No temporary activities in Commercial and Manufacturing zoning districts shall be maintained beyond the allowed time limit.
- F. Temporary activities on sites where the primary use is a conditional use may not violate the conditions of approval for the primary use.
- G. The operator shall meet all other applicable City requirements, such as sanitation facility permits or electrical permits.

CHAPTER 1299 Medical Marijuana Facilities

1299.01	Purpose.	1299.04	General requirements.
1299.02	Permitted.	1299.05	Basis of approval.
1299.03	Prohibited.	1299.06	Plan amendments.

CROSS REFERENCES Definitions - see P. & Z. 1203.03 Licensing - see BUS. REG. Ch. 715

1299.01 PURPOSE.

In addition to the licensing requirements of Chapter 715 of this Code, medical marijuana facilities shall be subject to the requirements defined in this Chapter. (Ord. 2017-4291. Passed 7-24-17.)

1299.02 **PERMITTED.**

Medical marijuana cultivators and processors, which are licensed under Ohio law and the City of Pataskala, shall be permitted only in the Planned Development District pursuant to Chapter 1255 of the Pataskala Code. (Ord. 2017-4291. Passed 7-24-17.)

1299.03 PROHIBITED.

Medical marijuana retail dispensaries, licensed under Ohio law, are hereby prohibited from locating and/or doing business within the City of Pataskala. (Ord. 2017-4291. Passed 7-24-17.)

1299.04 GENERAL REQUIREMENTS.

The following general requirements shall apply to all medical marijuana cultivators and processors:

- (a) <u>Location:</u> Medical marijuana cultivators and processors shall be located a minimum of 500 feet from any of the following:
 - (1) School
 - (2) Religious institution
 - (3) Public library
 - (4) Public park
 - (5) Public playground
 - (6) Recreational facility
 - (7) Davcare
- (b) A minimum six (6) foot fence located around the perimeter of the property in addition to all waste disposal containers, disposal areas or compost areas located outside the facility.

(c) No medical marijuana cultivator or processor shall operate in the City of Pataskala unless the medical marijuana cultivator or processor possesses a valid state certificate of operation from the Ohio Department of Commerce.

(d) Medical marijuana cultivators and processors shall comply with all local and state laws pertaining to medical marijuana facilities, including all local and state licensing requirements.

(Ord. 2017-4291. Passed 7-24-17.)

1299.05 BASIS OF APPROVAL.

In addition to the standards set forth in Chapter 1255 - Planned Development Districts and Section 1299.03 - General Requirements, the Planning and Zoning Commission and City Council shall consider the following criteria when considering an application for a medical marijuana cultivator or processor:

(a) The impact of the proposed use on public safety in the community.

(b) The impact of the proposed use on the economic welfare of the community.

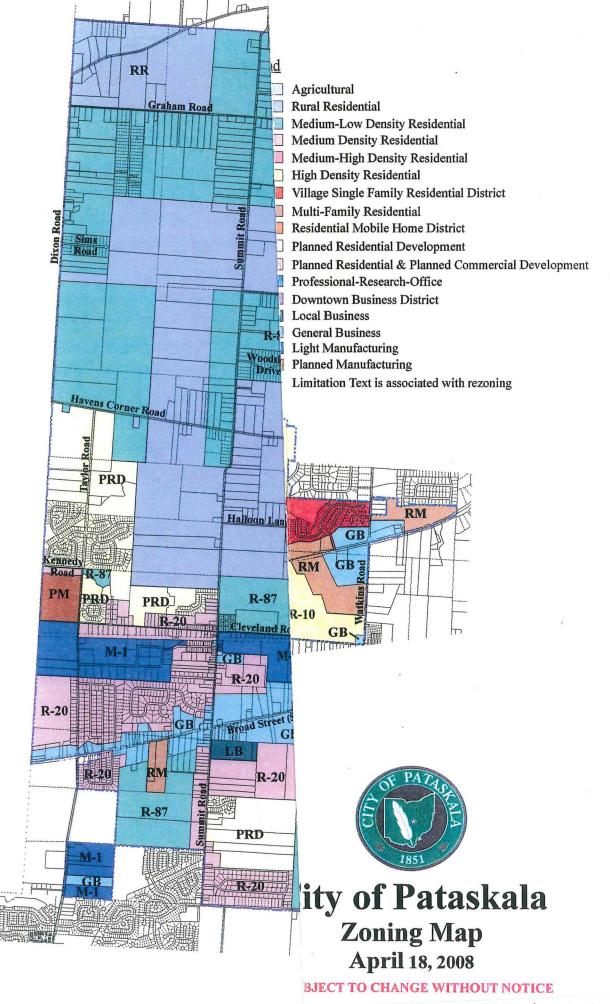
(c) The impact of the proposed use on the general welfare of the community in regard off-site impacts pursuant to Chapter 1287 of the Pataskala Code.

(d) The impact of the proposed use on any disproportional concentration of cultivation facilities or processing facilities in the community.

(Ord. 2017-4291. Passed 7-24-17.)

1299.06 PLAN AMENDMENTS.

Amendments to an approved Preliminary or Final Development Plan shall be considered a zoning amendment and shall be reviewed pursuant to the procedures set forth in Section 1255.13. (Ord. 2017-4291. Passed 7-24-17.)



CODIFIED ORDINANCES OF PATASKALA PART THIRTEEN - BUILDING CODE

Chap. 1305. Building Department.

Chap. 1309. OBOA One, Two and Three Family Dwelling Code.

Chap. 1315. Unsafe Structures.

Chap. 1319. Building Numbering.

Chap. 1329. Satellite Dish Antennas.

Chap. 1333. Ohio Building Code.

Chap. 1337. Residential Code of Ohio.

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CODIFIED ORDINANCES OF PATASKALA PART THIRTEEN - BUILDING CODE

CHAPTER 1305 Building Department

1305.01 Establishment; authority.

CROSS REFERENCES
Department established - see CHTR. 6.03

1305.01 ESTABLISHMENT; AUTHORITY.

- (a) The City of Pataskala Building Department is hereby established.
- (b) The Department shall have full authority to enforce all laws, statutes and regulations as provided and authorized in the Ohio Revised Code and the Ohio Administrative Code pursuant to the certification approved by the Ohio Board of Building Standards and a signed contract with the City of Newark.

 (Ord. 95-3059. Passed 2-6-95.)

CHAPTER 1309 OBOA One, Two and Three Family Dwelling Code

EDITOR'S NOTE: Pursuant to Ordinance 2009-3947 the City has enacted the Residential Code of Ohio. See Chapter 1337.

1309.01 Adoption; authority.

CROSS REFERENCES

Adoption by reference - see Ohio R.C. 731.231
State to enforce industrialized unit regulations - see Ohio R.C. 3781.06, 3781.10
State to establish energy standards for one, two and three-family dwellings - see Ohio R.C. 3781.181

1309.01 ADOPTION; AUTHORITY.

- (a) The OBOA One, Two and Three Family Dwelling Code is hereby adopted, as amended from time to time, and as incorporated herein by reference.
- (b) Per the agreement attached to original Ordinance 96-3000A, the Newark City Division of Code Administration will exercise all enforcement authority and accept and approve plans and specifications and make inspections necessary within the City of Pataskala in accordance with the OBOA One, Two and Three Family Dwelling Code except for "plumbing" (Plumbing Code compliance shall remain the responsibility of the Licking County Board of Health).
- (c) Per the agreement attached to original Ordinance 96-3000A, the Newark City Division of Code Administration shall have full authority to do all things necessary to administer and enforce the OBOA One, Two and Three Family Dwelling Code within the City of Pataskala, and in consideration therefor the City of Newark shall retain all permit and inspection fees.
- (d) The City of Pataskala further agrees to hold the City of Newark harmless for all claims or causes of action of every kind and nature arising from acts of the City of Pataskala, its agents, employees and representatives in the administration of said Code. (Ord. 96-3000A. Passed 4-8-96.)

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CHAPTER 1315 Unsafe Structures

1315.01	Powers and duties of	1315.08	Appeal of order.
	Building Inspector.	1315.09	Order to be final; procedure.
1315.02	Inspections.	1315.10	Right of entry.
1315.03	Building hazards or violations;	1315.11	Hindrance or interference
	notices; demolition orders.		with Building Inspector.
1315.04	Extensions of time.	1315.12	Failure to comply with
1315.05	Reinspection by Building		order.
	Inspector.	1315.13	Definitions.
1315.06	Order to demolish building.		
1315.07	Appeal to Council.		

CROSS REFERENCES Removal of unsafe structures - see Ohio R.C. 715.26 et seq.

1315.01 POWERS AND DUTIES OF BUILDING INSPECTOR.

- (a) Whenever any resident of the City files his or their written complaint alleging that any building or other structure within the City is unsafe or in need of repairs which have not been made by the owner thereof; or
- (b) When directed in writing by Council through its Clerk to inspect any building for the purpose of determining whether or not such building should be repaired or demolished, the Building Inspector shall cause an inspection of said building to be made personally. The Building Inspector shall give written notice to the owners thereof of his intention to do so at least five days in advance of such inspection.

 (Ord. 2019-4335. Passed 7-3-19.)

1315.02 INSPECTIONS.

When making inspections in response to the written complaint from any citizen or in response to the written direction of Council, the Building Inspector shall make observation to determine if there is a violation of any of the following codes or regulations:

- (a) The Ohio Basic Building Code.
- (b) National Electrical Code.
- (c) The Licking County Plumbing Code.
- (d) The Ohio Fire Code.
- (e) The lack of any fire escape in multiple family dwellings as defined in this chapter.

- (f) Lack of proper and adequate water supply according to the Licking County Plumbing Code.
- (g) The failure to properly maintain sanitary facilities sufficient to comply with the Plumbing Code of Licking County.

 For this purpose the Inspector is hereby authorized to request the assistance of the Licking County Board of Health and to follow their recommendations relative to the correction of any violation of the Plumbing Code of Licking County but otherwise their recommendations shall be deemed to be advisory and need not be followed by the Inspector.
- (h) Lack of or inadequate fire extinguishers in a residential dwelling designed for the occupancy and being occupied by one or two families for rental.
- (i) The lack of covered watertight containers for the deposit of garbage and other household wastes.
- (j) The failure to properly maintain and control any fire in stoves or furnaces used in heating of said dwelling or structure.
- (k) Failure to properly vent any gas appliance located in said dwelling or structure by providing airtight smoke pipes and chimneys within said building.
- (l) The lack of or failure to observe ordinary housekeeping procedures such as may constitute a threat to public health, safety and the general welfare of the inhabitants of any such structure or of the neighborhood.
- (m) The OBOA One, Two and Three Family Dwelling Code. (Ord. 2019-4335. Passed 7-3-19.)

1315.03 BUILDING HAZARDS OR VIOLATIONS; NOTICES; DEMOLITION ORDERS.

After the completion of his inspection, the Building Inspector of the City shall:

- (a) If the building is found to have no hazards as set forth in Section 1315.02; notify the person making the complaint or Council that no action is necessary and that none will be taken.
- (b) If hazards as enumerated in Section 1315.02 have been found; notify the owner and the tenants in writing by certified mail return receipt requested of the violations of this chapter and order them to either repair or correct the same making reference to the various sections of any code on which a violation is observed by specific mention thereof.
- (c) If the violation of the particular section of the code is of such a nature as to require its immediate correction for the preservation of the public health, safety of any occupant or of the public safety or of the general welfare of the community, he shall so state and in which case the owner thereof shall have such repairs or corrections made as the case may be.
- (d) In the event that the violations complained of by the Inspector are found to be of such a nature that additional time is required to make the corrections thereto, he shall so indicate and shall require that work be commenced upon the correction of said items within thirty days and be completed within sixty days.
- (e) In the event that the Inspector considers that the costs of making such repairs would exceed the tax valuation of the structure or building or dwelling complained of, he may order the building to be demolished. Such demolition shall be started not later than thirty days and be completed within ninety days after the issuance of this order.

(Ord. 2019-4335. Passed 7-3-19.)

1315.06

1315.04 EXTENSIONS OF TIME.

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- (a) If the owner, in writing, shall request additional time in which to complete any of the work mentioned in the Inspector's orders he may do so. The Building Inspector shall have the authority to grant additional time for the completion of the repairs for not longer than the total length of time specified in his original order.
- (b) In the event that the owner desires an additional extension of time, he shall make a written request therefor addressed to Council and delivered to the Clerk of Council who shall be the agent of Council. Thereupon, Council shall consider and request and allow, modify, or deny in whole or in part the request for extension of time. Notice of any allowance, modification, or denial shall be made by the Clerk of Council by certified mail directed to the owner, his agent, or attorney and a copy thereof shall be delivered to the Building Inspector for his record. (Ord. 2019-4335. Passed 7-3-19.)

1315.05 REINSPECTION BY BUILDING INSPECTOR.

- (a) At the end of the allowable period for the making of repairs (the allowable period being defined as the original time granted by the Building Inspector plus any extension granted by him plus any extension granted by Council), the Building Inspector shall enter upon the premises and reinspect same to determine if the repairs as ordered have been properly made. If the repairs have been properly made, the Building Inspector shall advise the owner, his agent, or attorney, in writing and keep a copy for his own records and the case shall be considered to be closed.
- (b) In the event that there is certain work to be completed or finished, the Building Inspector shall notify the owner, his agent or attorney of the necessity of completing this work and shall permit an additional ten days for the completion of said work. Such notice of the necessity to complete the work shall be given in writing by certified mail, return receipt requested and shall be addressed to the owner, his agent or attorney and the Building Inspector shall retain a copy for his own records.
- (c) No further extensions of time shall be granted by the Building Inspector for the completion of the work. (Ord. 2019-4335. Passed 7-3-19.)

1315.06 ORDER TO DEMOLISH BUILDING.

- (a) If after the initial inspection, the building is in such a state of disrepair that the Building Inspector feels that the cost of making such repairs as are necessary would exceed the possible economic useful life of the building, he may order the building demolished with the specific requirement that he shall enumerate all faults which he finds in the building and all code sections which he finds to have been violated. If an order to demolish a building is issued, the owner shall be given a period of ninety days in which to complete such demolition, leveling and restoration of the land so that no open basements or walls will be left standing and the lot restored to its original ground level.
- (b) If the Building Inspector determines that the building or structure poses an imminent danger and immediate demolition is required for the preservation of public safety because of an unsafe or hazardous condition, an emergency may be declared, and the City may secure and use necessary labor to perform the demolition as expeditiously as possible to protect the public health, safety and welfare.
- (c) Any order to demolish a building shall be automatically referred to Council as if the same were appealed on the order of the Building Inspector and Council shall make all orders concerning demolition. (Ord. 2019-4335. Passed 7-3-19.)

1315.07 APPEAL TO COUNCIL.

In the event that the Building Inspector shall order repairs of any building within the corporate limits of the City and the owner shall not agree with the order of the Building Inspector in any particular, the owner, his agent or attorney, may within fifteen days after the date of the original issuance of the order, file in writing their appeal from the order of the Building Inspector and ask that Council hold a hearing, review the findings of the Building Inspector, and uphold, modify or deny the appeal. The owner, his agent or attorney shall deliver a written copy of the order appealed from together with his petition for Council's consideration to the Clerk of Council and thereupon the Clerk of Council shall inform the Building Inspector, and the Law Director, that such an appeal has been filed and that it will be considered at the next meeting of Council taking place after fifteen days from the date that he receives notice of the appeal to Council.

At the hearing which shall be held with Council, the evidence to be given by the Building Inspector, by witness or witnesses for the owner, shall be confined solely to the matter of the report of the Building Inspector relative to the condition of the building or structure complained

of, and no other evidence shall be permitted to be received by Council.

The owner may appear in person with counsel and be permitted to examine and cross examine the witnesses or the Building Inspector. On behalf of the City the Law Director shall represent the Building Inspector and shall also be permitted to examine and cross examine any

witnesses, including the Building Inspector.

At the conclusion of the hearing, or within ten days thereafter, Council shall determine whether or not to uphold the Building Inspector in his recommendations or whether or not the same might be modified in some instances or respects, or denied in full or in part. In any event Council shall render its written report of its hearing and the Clerk of Council shall cause copies of the recommendation of Council to be furnished to the Law Director, any counsel for the owner, and the owner himself, by certified mail, return receipt requested. If the recommendation of the Building Inspector is modified, the report of Council shall state in what ways the same is modified and shall order the repair or demolition of the building or other structure, or the commencement of the repairs or demolition within not less than thirty days from the date that the report was filed with the Clerk of Council. The Clerk of Council shall within five days after the receipt of the report of Council cause the same to be mailed by certified mail to all parties.

In the event that the owner, or his agent, or attorney, disagrees with the report of Council or the recommendations and orders therein made, such owner, or agent or attorney shall have a period of thirty days in which to file an appeal in the Court of Common Pleas of Licking County, seeking a restraining order enjoining Council and the Building Inspector from enforcing the order and recommendation of Council.

(Ord. 2019-4335. Passed 7-3-19.)

1315.08 APPEAL OF ORDER.

In the event that the owner or agent, or counsel for the owner shall appeal said order and shall obtain a temporary restraining order, such action shall be advanced on the docket of said court in accordance with the requirements of Ohio R.C. 715.26.2 and shall be heard by said court as soon as the same is possible in accordance with the Rules of Civil Procedure and the statute. The evidence to be heard shall be confined within the same limitation as the same was when originally heard by Council.

(Ord. 2019-4335. Passed 7-3-19.)

1315.09 ORDER TO BE FINAL; PROCEDURE.

In the event that the recommendation of Council modifies or confirms the recommendation of the Building Inspector and no appeal is filed on such order, then the same shall become final as against the owner.

If an appeal is filed and an order of modification entered by the Court of Common Pleas, Court of Appeals, or the Ohio Supreme Court, modifying in whole or in part or sustaining in whole or in part the order of Council, such order once issued and not appealed shall become final.

Upon the order becoming final, work shall be commenced in accordance with the order and the failure of the owner to comply with such order shall be deemed to be a misdemeanor of the first degree and punished as prescribed in the General Offenses Code. (Ord. 2019-4335. Passed 7-3-19.)

1315.10 RIGHT OF ENTRY.

The Building Inspector or any of his designated agents may at any reasonable hour, enter any dwelling, structure or premises within the Municipality to perform any duty imposed on him by this Building Code, provided that permission to enter is obtained from the occupant or, in the case of unoccupied property, from the owner or his agent. If such permission is refused or is otherwise unobtainable, a search warrant must be obtained before such entry or inspection is made, except in the case of an existing emergency in which case entry may be made at any time and no search warrant is necessary. No person shall refuse to permit such emergency entry or inspection, nor shall any person hinder, obstruct, resist or abuse any person making or attempting to make such entry or inspection. (Ord. 2019-4335. Passed 7-3-19.)

1315.11 HINDRANCE OR INTERFERENCE WITH BUILDING INSPECTOR.

Any person interfering with, molesting or otherwise restraining such inspection shall be guilty of a misdemeanor of the first degree and shall be punished as according to the General Offenses Code. (Ord. 2019-4335. Passed 7-3-19.)

1315.12 FAILURE TO COMPLY WITH ORDER.

If the owner neglects or fails to carry out the requirements of any final order issued by the Building Inspector, said order once it shall become final as against said premises, the Finance Director shall, upon completion of the work, including any work done by City employees, proceed to certify the cost thereof, plus fifty percent (50%) for overhead and expenses in connection therewith, which shall include supervision of such employees, to the Auditor of Licking County, certifying, levying and assessing the same to be collected as a special assessment upon the property described in the order.

(Ord. 2019-4335. Passed 7-3-19.)

1315.13 DEFINITIONS.

Words and phrases used in this chapter shall be liberally construed and shall have the following definitions:

(a) "Building Inspector" means the City Administrator or his designee.

(b) "Order" means that notice given by the Building Inspector and signed by him requiring that the owner make repairs or demolish his building or structure.

(c) "Building or structure" means any dwelling house for the occupancy of less than four families or any other structure such as a barn, garage, accessory building or outbuilding situated upon any lot within the corporation of the City which may be the subject of an inspection by the Building Inspector.

(d) "Owner" means the person holding legal title to the particular plot or parcel of land located within the City upon which an order of the Building Inspector might have

been issued.

- (e) "Tenant" means the person occupying the premises within the City, not the owner whether or not rent is paid to the owner or not.
- (f) "City of Pataskala" means the Municipality of Pataskala, Ohio, within its corporation boundaries.
- (g) "Oĥio Basic Building Code" means the code of regulations adopted by the Division of Industrial Relations in accordance with the Administrative Procedure Act of Ohio relative to buildings or structures which are located within the corporate limits of the City.
- (h) "Ohio State Fire Code" means that document adopted by the State Fire Marshal's office in accordance with the Administrative Procedure Act regulating exits, electrical systems, electrical installations, and other details having to do with fire safety within the State.
- (i) "Licking County Plumbing Code" means the code adopted by the Board of Health of Licking County relative to the installation of plumbing in any building located in the City.
- (j) "National Electrical Code" means that document issued by the Fire Underwriter's Laboratory governing the installation of electrical wiring and fixtures, motors, and other installations.
 - (Ord. 2019-4335. Passed 7-3-19.)

CHAPTER 1319 Building Numbering

1319.01	Plan; numbers assigned.	1319.05	Failure to comply; nuisance
1319.02	Numbers required.		declared.
1319.03	Display of numbers.	1319.99	Penalty.
1319.04	Duty of owner or tenant.		•

CROSS REFERENCES
Power to regulate - see Ohio R.C. 715.26

1319.01 PLAN; NUMBERS ASSIGNED.

The plan of street numbering for buildings within the Municipality, which is on file in the office of the Clerk of Council showing street numbers assigned to buildings on lots or parcels of land within the Municipality, is hereby approved. In case more than one number is assigned by the plan to a building on any one lot or parcel of land, the Zoning Inspector may designate which of the assigned numbers shall be used for any building thereon. In case of the subdivision of any lot or parcel shown on the plan, or the erection on any such lot or parcel or part thereof of more than one building, or a building having more than one entrance to be separately numbered, the Zoning Inspector shall assign appropriate numbers to each building or separate entrance. (Ord. 89-2009. Passed 7-10-89.)

1319.02 NUMBERS REQUIRED.

Each single-family dwelling within the Municipality shall be provided with one street number for its main entrance. Each two-family dwelling, multiple-family dwelling, or apartment shall be provided with one street number for each entrance other than service or rear yard entrances. Each business structure shall be provided with one street number for the street entrance of each store stairway serving occupants of the structure. (Ord. 89-2009. Passed 7-10-89.)

1319.03 DISPLAY OF NUMBERS.

Each number required by this chapter shall be displayed on the fanlight, transom, door, door frame, or doorstep of the proper entrance, or upon a sign in the yard or treelawn immediately in front of the entrance. In all cases the numbers shall be of a size four inches in height or greater and displayed in such a manner as to be clearly visible from the sidewalk in front of the entrance. (Ord. 89-2009. Passed 7-10-89.)

1319.04 DUTY OF OWNER OR TENANT.

The owner of any building within the Municipality or tenant occupying any such building or any portion thereof, shall be responsible for providing numbers and displaying the same as required by this chapter.

(Ord. 89-2009. Passed 7-10-89.)

1319.05 FAILURE TO COMPLY; NUISANCE DECLARED.

The Zoning Inspector, upon finding any building or entrance not displaying a number as required by this chapter, shall send written notice thereof to the owner or to any tenant responsible for such numbering. If a proper number is not provided and displayed within ten days after the receipt of the notice by the owner or tenant, each owner or tenant shall be deemed guilty of a violation of this provision. Failure to provide and display such numbers is also declared to be a nuisance, and in addition to any penalty provided, the Zoning Inspector may provide the numbers and the cost thereof may be assessed against the property in the manner provided for abating nuisances. (Ord. 89-2009. Passed 7-10-89.)

1319.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor.

CHAPTER 1329 Satellite Dish Antennas

1329.01	Permit required.	1329.04	Dish support structures.
	Application; issuance.		Other requirements.
1329.03	Location of satellite dish	1329.99	Penalty.
	"earth station".		•

1329.01 PERMIT REQUIRED.

No person, firm or corporation shall erect a satellite dish in the City, without first securing a permit in accordance with the provisions of this chapter. (Ord. 84-977. Passed 11-5-84.)

1329.02 APPLICATION; ISSUANCE.

The owner, part owner, or occupant of any lot, premises or parcel of land within the City who desires to construct or erect a satellite dish at any location within the City shall apply to the Zoning Inspector for a permit.

The Zoning Inspector shall issue such permit provided the applicant:

(a) Submits a written application upon forms furnished by the City, with a plot plan of the lot, premises or parcel attached showing the exact location of the proposed satellite dish; a description of the kind of satellite dish, and the plans and specifications showing the elevations, where it is to be erected, and of the dish itself, and sufficient details to show the method of assembly and construction. The plans and specifications shall give the address of the work, name and address of the owner of the property, and of the person who prepared the plans and specifications. Each application shall also indicate the occupant of the premises and the contractor or other person to be permitted to construct or erect the proposed satellite dish.

(b) Meets all of the requirements of this chapter.

(c) Submits with each application fifty dollars (\$50.00) which represents a permit fee. The permit fee shall cover the cost of review of the plans and the handling of the application and inspection of the construction by the Zoning Inspector. (Ord. 84-977. Passed 11-5-84.)

1329.03 LOCATION OF SATELLITE DISH "EARTH STATION".

- (a) No satellite dish shall be constructed in any front or side yard and may only be constructed to the rear of the main building on the premises where not visible from the street or within twenty feet of any lot line.
- (b) No dish shall be erected on the rooftop of any residential, commercial, school, church or any other building.
- (c) No dish shall be linked to receivers which are not located on the same lot or premises. (Ord. 84-977. Passed 11-5-84.)

1329.04 DISH SUPPORT STRUCTURES.

There shall be support structures as follows:

- (a) Only metal support, galvanized construction, or equal thereto, shall be allowed.
- (b) Only a concrete base or caissons, depending on soil conditions, shall be employed in line with grade.
- (c) The structure shall be designed to withstand wind force of up to eighty-five miles per hour in a manner conforming with good engineering practices.
- (d) Any driving motor shall be limited to 110V maximum power design and shall be encased in protective guards.
- (e) All underground electrical wiring must be encased in rigid conduit with an eighteen inch cover. Any overhead wiring must also meet the approval of the Building Inspector.
- (f) The "dish" must be bonded to an eight-foot grounding rod. (Ord. 84-977. Passed 11-5-84.)

1329.05 OTHER REQUIREMENTS.

- (a) Size. The maximum diameter of any dish shall not exceed twelve feet.
- (b) <u>Height.</u> The maximum height of any dish structure shall not exceed fifteen feet from natural grade level.
- (c) <u>Screening.</u> The plans submitted in accordance with Section 1329.02 shall specify appropriate evergreen landscaping to conceal the dish from view and the planting shall be installed before approval by the Building Inspector. (Ord. 84-977. Passed 11-5-84.)

1329.99 PENALTY.

Whoever violates or fails to comply with any provision of this chapter shall be guilty of a misdemeanor of the fourth degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. (Ord. 84-977. Passed 11-5-84.)

CHAPTER 1333 Ohio Building Code

1333.01 Adoption.

1333.02 Enforcement.

CROSS REFERENCES

See sectional histories for similar State law Removal of unsafe structures - see Ohio R.C. 715.26(B), 715.261 Power to enact further and additional regulations - see Ohio R.C. 3781.01 Authorization by Board of Building Standards - see Ohio R.C. 3781.12 Enforcement - see Ohio R.C. 3781.03, 3781.031, 3781.10(E), 3781.102, 3781.19 Final jurisdiction - see Ohio R.C. 3781.04 Application - see Ohio R.C. 3781.06, 3781.10(E), 3781.11(A) Submission of plans - see Ohio R.C. 3791.04 Dead bolt locks in apartment buildings - see Ohio R.C. 3781.103 Smoke detection system for apartments and condominiums - see Ohio R.C. 3781.104 Automatic sprinkler systems - see Ohio R.C. 3781.105, 3791.041 et seq. Fire suppression systems - see Ohio R.C. 3781.108 Use of public buildings by handicapped persons - see Ohio R.C. 3781.111 Energy conservation - see Ohio R.C. 3781.181, 3781.182, 3781.21 Abandoned service stations - see Ohio R.C. 3791.11 et seq.

1333.01 ADOPTION.

(a) Ohio Administrative Code 4101:1 - Ohio Building Code as promulgated by the Ohio Board of Building Standards, shall apply and be enforced within the City.

Safety standards for refuse containers - see Ohio R.C. 3791.21

(b) This chapter shall be in full force and effect from and after the earliest period permitted by law following promulgation of the Ohio Building Code by the Board of Building Standards through the certification process, adoption and effective date of certification issued by the Ohio Board of Building Standards. (Ord. 2009-3948. Passed 12-7-09.)

1333.02 ENFORCEMENT.

- The City Administrator of the City is hereby authorized and directed to sign and submit an application to the Ohio Board of Building Standards requesting said Board to certify the City for enforcement of the Ohio Building Code with the condition that the Licking County Building Code Enforcement Department exercise the enforcement authority as necessary in accordance with the Ohio Building Code within the limits of said City and to enter into an agreement with the County for such purpose.
- The City through its City Administrator is hereby authorized and directed to enter into an agreement with the County for the enforcement of the Ohio Building Code within the limits of said City whereby the Licking County Building Code Enforcement Department will exercise all enforcement authority and accept and approve plans and specifications and make inspections necessary within said City in accordance with the provisions of the Ohio Building Code.
- The terms of said agreement shall grant to the County full authority to do all things (c) necessary to administer and enforce the Ohio Building Code within the limits of the City and in consideration therefore to allow the County to retain all permit and inspection fees authorized by the State of Ohio for such purposes.
- Council agrees to hold the County harmless for all claims or causes of action of every kind and nature arising from the acts of the County, its agents, employees, and representatives in the administration and enforcement of said codes. (Ord. 2009-3948. Passed 12-7-09.)

CHAPTER 1337 Residential Code of Ohio

1337.01 Adoption.

1337.02 Enforcement.

1337.01 ADOPTION.

- (a) Ohio Administrative Code 4101:8 Residential Code of Ohio as promulgated by the Ohio Board of Building Standards, shall apply and be enforced within the City.
- (b) This chapter shall be in full force and effect from and after the earliest period permitted by law following promulgation of the Residential Code of Ohio by the Board of Building Standards through the certification process, adoption and effective date of certification issued by the Ohio Board of Building Standards. (Ord. 2009-3947. Passed 12-7-09.)

1337.02 ENFORCEMENT.

- (a) The City Administrator of the City is hereby authorized and directed to sign and submit an application to the Ohio Board of Building Standards requesting said Board to certify the City for enforcement of the Residential Code of Ohio with the condition that the Licking County Building Code Enforcement Department exercise the enforcement authority as necessary in accordance with the Residential Code of Ohio within the limits of said City and to enter into an agreement with the County for such purpose.
- (b) The City through its City Administrator and its Service Director is hereby authorized and directed to enter into an agreement with the County for the enforcement of the Residential Code of Ohio within the limits of said City whereby the Licking County Building Code Enforcement Department will exercise all enforcement authority and accept and approve plans and specifications and make inspections necessary within said City in accordance with the provisions of the Residential Code of Ohio.

- (c) The terms of said agreement shall grant to the County full authority to do all things necessary to administer and enforce the Residential Code of Ohio within the limits of the City and in consideration therefore to allow the County to retain all permit and inspection fees authorized by the State of Ohio for such purposes.
- (d) Council agrees to hold the County harmless for all claims or causes of action of every kind and nature arising from the acts of the County, its agents, employees, and representatives in the administration and enforcement of said codes. (Ord. 2009-3947. Passed 12-7-09.)

CODIFIED ORDINANCES OF PATASKALA PART FIFTEEN - FIRE PREVENTION CODE

Chap. 1501. Ohio Fire Code.

Chap. 1511. Open Burning.

Chap. 1519. Fireworks.

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CODIFIED ORDINANCES OF PATASKALA PART FIFTEEN - FIRE PREVENTION CODE

CHAPTER 1501 Ohio Fire Code

1501.01	Adoption.	1501.09	Disclosure of true Fire
1501.02	Purpose.		Safety Inspector status.
1501.03	Application.	1501.10	Fire equipment sale or
1501.04	Enforcement.		use; certification of
1501.05	Compliance.		installers.
1501.06	Posting arson laws.	1501.11	Copies.
1501.07	Setting fires which	1501.12	Conflict.
	spread.	1501.99	Penalty.
1501.08	Unfriendly fires in		•
	buildings; alarm duties.		

CROSS REFERENCES

See sectional histories for similar State law Appeals of orders - see Ohio R.C. 119.12

State certification of firefighters - see Ohio R.C. 737.08, 737.22, 3737.33

State certification of Fire Safety Inspectors - see Ohio R.C. 3737.01(C), 3737.34

Fire investigation - see Ohio R.C. 737.27, 3737.24 et seq.

Entry and Inspection - see Ohio R.C. 737.34 et seq., 3737.14, 3737.41, 3737.42

Common Pleas Court jurisdiction - see Ohio R.C. 3737.44(A), 3737.51(H)

Ohio Fire Code - see Ohio R.C. 3737.82 et seq.; OAC Ch. 1301:7-1 et seq.

Fire extinguishing and alarm systems in rest and nursing homes - see Ohio R.C. 3721.071

Self-service filling stations - see Ohio R.C. 3741.14

Fireworks exhibitions - see Ohio R.C. 3743.50 et seq.

1501.01 ADOPTION.

There is hereby adopted by the Municipality, the 2011 Ohio Fire Code (OFC) as adopted by the Ohio Division of State Fire Marshal, Department of Commerce, effective November 1, 2011, and as published in Division 1301:7 of the Ohio Administrative Code (OAC).

1501.02 PURPOSE.

The purpose of the Ohio Fire Code as adopted herein is to prescribe minimum standards and regulations governing conditions hazardous to life and property from fire or explosion.

1501.03 APPLICATION.

The Ohio Fire Code as adopted herein applies to the use of all lands and properties within the Municipality and such other lands or properties owned by the Municipality which are situated outside the corporate limits thereof.

1501.04 ENFORCEMENT.

- (a) No person shall serve as Municipal Fire Safety Inspector unless he has received a certificate issued by the State Board of Emergency Medical Services under former Ohio R.C. 3303.07 or 4765.55 evidencing his satisfactory completion of a fire safety inspection training program.

 (ORC 3737.34)
- (b) For Municipal criminal proceedings, the complaint, warrant or summons, or the issuance of a citation in minor misdemeanor cases shall be, as is prescribed in the Ohio Rules of Criminal Procedure, by referencing the numerical designation of the applicable Municipal ordinance, including the specific provision of the Ohio Fire Code, or any order issued pursuant thereto, provided such order fixes a reasonable time for abatement of the violation. State enforcement proceedings for violation of Ohio R.C. Chapter 3737 or the Ohio Fire Code shall be as is prescribed in Ohio R.C. 3737.41 to 3737.46.
- (c) A copy of such complaint or citation shall be prominently posted at or near each place a violation referred to occurs.
- (d) Upon request of the Municipal Fire Safety Inspector, the Municipal Legal Officer shall institute and prosecute any necessary action or proceeding to enforce this chapter or Ohio R.C. Chapter 3737.

1501.05 COMPLIANCE.

(a) No person shall knowingly violate any provision of the Ohio Fire Code as adopted herein or any order issued pursuant thereto. (ORC 3737.51(A))

(b) No person shall fail to comply with the fire prevention measures or fire protection activities as prescribed in the Ohio Fire Code, or fail to obtain a permit or license for the various uses or activities as required by such Code, or fail to comply with the Municipal application and plan submission and processing requirements including payment of the fees designated therefor.

1501.06 POSTING ARSON LAWS.

The owner, operator or lessee of any transient residential building shall post the provisions of Ohio R.C. 2909.02 and 2909.03 in a conspicuous place in each room occupied by guests in such building. The owner, operator or lessee of any nontransient residential building, institution, school or place of assembly shall post the provisions of such sections in conspicuous places upon such premises. No person shall fail to comply with this section. (ORC 3737.61)

1501.07 SETTING FIRES WHICH SPREAD.

No person shall set, kindle or cause to be set or kindled any fire, which through his negligence, spreads beyond its immediate confines to any structure, field or wood lot. (ORC 3737.62)

1501.08 UNFRIENDLY FIRES IN BUILDING; ALARM DUTIES.

- (a) The owner, operator or lessee, an employee of any owner, operator or lessee, an occupant, and any person in direct control of any building regulated under the Ohio Basic Building Code, upon the discovery of an unfriendly fire, or upon receiving information that there is an unfriendly fire on the premises, shall immediately, and with all reasonable dispatch and diligence, call or otherwise notify the Fire Department concerning the fire, and shall spread an alarm immediately to all occupants of the building.
- (b) For the purposes of this section, "unfriendly fire" means a fire of a destructive nature as distinguished from a controlled fire intended for a beneficial purpose.
- (c) No person shall fail to comply with this section. (ORC 3737.63)

1501.09 DISCLOSURE OF TRUE FIRE SAFETY INSPECTOR STATUS.

No person who is not a certified Fire Safety Inspector shall act as such or hold himself out to be such, unless prior to commencing any inspection function, he discloses the purpose for which he is making such inspection and the fact that he is not employed by any state or local fire service or agency, and that he is not acting in an official capacity for any governmental subdivision or agency.

(ÖRC 3737.64)

1501.10 FIRE EQUIPMENT SALE OR USE; CERTIFICATION OF INSTALLERS.

- (a) No person shall sell, offer for sale, or use any fire protection or fire fighting equipment that does not meet the minimum standards established by the Ohio Fire Marshal in the Ohio Fire Code.
- (b) Except for public and private mobile fire trucks, no person shall service, test, repair or install for profit any fire protection or fire fighting equipment without a certificate issued by the Ohio Fire Marshal. (ORC 3737.65)

1501.11 COPIES.

Copies of Codes as adopted in this chapter are on file with the Council Clerk for inspection by the public, and also on file in the County Law Library, and the Clerk has copies available for distribution to the public at cost.

1501.12 CONFLICT.

- (a) The rules of the Ohio Board of Building Standards including the Ohio Basic Building Code shall supersede and govern any order, standard or rule of the Department of Commerce, Division of State Fire Marshal including the Ohio Fire Code, in all cases where such orders, standards or rules are in conflict with such rules or the Ohio Basic Building Code, except that rules adopted and orders issued by the State Fire Marshal pursuant to Ohio R.C. Chapter 3743 entitled "Fireworks" prevail in the event of conflict. (OAC 4101:2-1-04(B))
- (b) In all other cases of conflict between the Ohio Fire Code and any other Municipal ordinance or technical code adopted thereby, the more restrictive provision shall govern.

1501.99 PENALTY.

- (a) <u>Criminal Penalties.</u>
 - (1) Whoever violates Section 1501.05(a) is guilty of a misdemeanor of the first degree. (ORC 3737.99(B))
 - (2) Whoever violates Sections 1501.05(b) or 1501.06 is guilty of a minor misdemeanor. (ORC 3737.99(C))
 - (3) Whoever violates Sections 1501.07 or 1501.09 is guilty of a misdemeanor of the fourth degree. (ORC 3737.99(D))
 - (4) Whoever violates Sections 1501.08 or 1501.10 is guilty of a misdemeanor of the third degree. (ORC 3737.99(E))

(b) Civil Penalties.

- (1) Any person who has received a citation for a serious violation of the Ohio Fire Code or any order issued pursuant to it, shall be assessed a civil penalty of not more than one thousand dollars (\$1,000) for each such violation.
- (2) Any person who has received a citation for a violation of the Ohio Fire Code or any order issued pursuant to it, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of not more than one thousand dollars (\$1,000) for each such violation.
- (3) Any person who fails to correct a violation for which a citation has been issued within a period permitted for its correction, may be assessed a civil penalty of not more than one thousand dollars (\$1,000) for each day during which such failure or violation continues.
- (4) Any person who violates any of the posting requirements, as prescribed by Section 1501.04(c), shall be assessed a civil penalty of not more than one thousand dollars (\$1,000) for each violation.
- (5) Due consideration to the appropriateness of the penalty with respect to the gravity of the violation, the good faith of the person being charged, and the history of the previous violations shall be given whenever a penalty is assessed under this chapter.

(6) For purposes of this section, a serious violation shall be considered to exist if there is a substantial probability that an occurrence causing death or serious physical harm to persons could result from a condition which exists, or from one or more practices, means, methods, operations or processes which have been adopted or are in use, unless the person did not and could not with the exercise of reasonable diligence, know of the presence of the violation.

1501.99

(7) Civil penalties imposed by this chapter shall be paid to the Municipal Chief Fiscal Officer for deposit into the General Revenue Fund. Such penalties may be recovered in a civil action in the name of the Municipality brought in the Court of Common Pleas.

(ORC 3737.51(B) to (H))

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CHAPTER 1511 Open Burning

1511.01	Definitions.	1511.04	Permission from and
1511.02	Relations to other		notification to the Ohio EPA.
	prohibitions.	1511.05	Open burning; recreational
1511.03	Open burning in restricted		fires; portable outdoor
	areas.		fireplaces.
		1511.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law Air pollution control - see Ohio R.C. Ch. 3704 Permit to burn construction debris - see Ohio R.C. 3704.11(C) Spreading fire through negligence - see Ohio R.C. 3737.62 Open burning - see OAC Ch. 3745

1511.01 DEFINITIONS.

As used in Chapter 3745-19 of the Ohio Administrative Code and this chapter:

(a) "Agricultural waste" means any waste material generated by crop, horticultural, or livestock production practices, and includes such items as woody debris and plant matter from stream flooding, bags, cartons, structural materials, and landscape wastes that are generated in agricultural activities, but does not include land clearing waste; buildings; garbage; dead animals; animal waste; motor vehicles and parts thereof; nor economic poisons and containers thereof, unless the manufacturer has identified open burning as a safe disposal procedure.

(b) "Economic poisons" include but are not restricted to pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants;

herbicides; seed disinfectants; and defoliants.

(c) "Garbage" means any waste material resulting from the handling, processing,

preparation, cooking and consumption of food or food products.

(d) "Landscape waste" means any plant waste material, except garbage, including trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings and crop residues.

- (e) "Land clearing waste" means plant waste material which is removed from land, including plant waste material removed from stream banks during projects involving more than one property owner, for the purpose of rendering the land useful for residential, commercial, or industrial development. Land clearing waste also includes the plant waste material generated during the clearing of land for new agricultural development.
- (f) "Ohio EPA" means the Ohio Environmental Protection Agency Director or agencies delegated authority by such Director pursuant to Ohio R.C. 3704.03 or the Chief of any Ohio Environmental Protection Agency district office.
- "Open burning" means the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney. Open burning includes the burning of any refuse or salvageable material in any device not subject to or designed specifically to comply with the requirements of Ohio Administrative Code 3745-17-09 or 3745-17-10.
- (h) "Residential waste" means any waste material, including landscape waste, generated on a one-, two- or three-family residence as a result of residential activities, but not including garbage.
- (i) "Restricted area" means the area within the boundary of any municipal corporation established in accordance with the provisions of Title 7 of the Ohio Revised Code, plus a zone extending 1,000 feet beyond the boundaries of any such municipal corporation having a population of 1,000 to 10,000 persons and a zone extending one mile beyond any such municipal corporation having a population of 10,000 persons or more according to the latest federal census.
- (j) "Unrestricted area" means all areas outside the boundaries of a restricted area as defined in subsection (i) hereof.
 (OAC 3745-19-01)
- (k) "Bonfire" means an outdoor fire utilized for ceremonial purposes.
- (l) "Recreational fire" means an outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit and has a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

 (OAC 1301:7-7-03)

1511.02 RELATIONS TO OTHER PROHIBITIONS.

- (a) Notwithstanding any provision in Ohio Administrative Code Chapter 3745-19, no open burning shall be conducted in an area where an air alert, warning or emergency under Ohio Administrative Code Chapter 3745-25 is in effect.
- (b) No provisions of Ohio Administrative Code Chapter 3745-19, permitting open burning, and no permission to open burn granted by the Ohio EPA, shall exempt any person from compliance with any section of the Ohio Revised Code, or any regulation of any State department, or any local ordinance or regulation dealing with open burning. (OAC 3745-19-02)

1511.03 OPEN BURNING IN RESTRICTED AREAS.

(a) No person or property owner shall cause or allow open burning in a restricted area except as provided in subsections (b) to (d) hereof; in Ohio R.C. 3704.11 and in compliance with Section 1511.05 of this chapter.

- (b) Open burning shall be allowed for the following purposes without notification to or permission from the Ohio EPA:
 - (1) Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers and strikers, smudge pots and similar occupational needs.
 - Bonfires, campfires and outdoor fireplace equipment, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational, or similar purposes, if the following conditions are met:
 - A. They are fueled with clean seasoned firewood, natural gas, or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood:
 - B. They are not used for waste disposal purposes; and
 - C. They shall have a total fuel area of three feet or less in diameter and two feet or less in height.
 - (3) Disposal of hazardous explosive materials, military munitions or explosive devices that require immediate action to prevent endangerment of human health, public safety, property or the environment and that are excluded from the requirement to obtain a hazardous waste permit pursuant to paragraph (D)(1)(d) of Rule 3745-50-45 of the Ohio Administrative Code.
 - (4) Recognized training in the use of fire extinguishers for commercial or industrial fire prevention.

Fires allowed by subsections (b)(1), (b)(2) and (b)(4) hereof shall not be used for waste disposal purposes and shall be of minimum size sufficient for their intended purpose; the fuel shall be chosen to minimize the generation and emission of air contaminants.

- (c) Open burning shall be allowed for the following purposes with prior notification to the Ohio EPA in accordance with subsection (b) of Section 1511.04:
 - (1) Prevention or control of disease or pests, with written or verbal verification to the Ohio EPA from the local health department, cooperative extension service, Ohio Department of Agriculture, or U.S. Department of Agriculture, that open burning is the only appropriate disposal method.
 - Bonfires or campfires used for ceremonial purposes that do not meet the requirements of subsection (b)(2) hereof, provided the following conditions are met:
 - A. They have a total fuel area no greater than five feet in diameter by five feet in height and burn no longer than three hours;
 - B. They are not to be used for waste disposal purposes; and
 - C. They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood.
 - (3) Disposal of agricultural waste generated on the premises if the following conditions are observed:
 - A. The fire is set only when atmospheric conditions will readily dissipate contaminants;
 - B. The fire does not create a visibility hazard on the roadways, railroad tracks, or air fields;

- C. The fire is located at a point on the premises no less than one thousand feet from any inhabited building not located on said premises;
- D. The wastes are stacked and dried to provide the best practicable condition for efficient burning; and
- E. No materials are burned which contain rubber, grease, asphalt or liquid petroleum products.
- (d) Open burning shall be allowed for the following purposes upon receipt of written permission from the Ohio EPA, in accordance with subsection (a) of Section 1511.04, provided that any conditions specified in the permission are followed:
 - (1) Disposal of ignitable or explosive materials where the Ohio EPA determines that there is no practical alternate method of disposal, excluding those materials identified in subsection (b)(3) hereof;
 - Instruction in methods of fire fighting or for research in the control of fires as recognized by the State Fire Marshal Division of the Ohio Department of Commerce and the guidelines set forth in the National Fire Protection Association's (NFPA) publication 1403: "Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures", provided that the application required in subsection (a)(1) of Section 1511.04 is submitted by the commercial or public entity responsible for the instruction;
 - (3) In emergency or other extraordinary circumstances for any purpose determined to be necessary by the Director and performed as identified in the appendix to Rule 3745-19-03 of the Ohio Administrative Code. If deemed necessary, the open burning may be authorized with prior oral approval by the Director followed by the issuance of a written permission to open burn within seven working days of the oral approval;
 - (4) Recognized horticultural, silvicultural, range or wildlife management practices; and
 - (5) Fires and/or pyrotechnic effects, for purposes other than waste disposal, set as part of commercial film-making or video production activities for motion pictures and television. (OAC 3745-19-03)

1511.04 PERMISSION FROM AND NOTIFICATION TO THE OHIO EPA.

- (a) Permission.
 - (1) An application for permission to open burn shall be submitted in writing at least ten working days before the fire is to be set. Saturday, Sunday and legal holidays shall not be considered a working day. It shall be in such form and contain such information as required by the Ohio EPA.
 - (2) Except as provided in subsection (a)(6) and (a)(7) hereof, such applications shall contain, as a minimum, information regarding:
 - A. The purpose of the proposed burning;
 - B. The nature of quantities of material to be burned:
 - C. The date or dates when such burning will take place;
 - D. The location of the burning site, including a map showing distances to residences, populated areas, roadways, air fields, and other pertinent landmarks; and
 - E. The methods or actions which will be taken to reduce the emissions of air contaminants.

- (3) Permission to open burn shall not be granted unless the applicant demonstrates to the satisfaction of the Ohio EPA that open burning is necessary to the public interest; will be conducted in a time, place and manner as to minimize the emission of air contaminants; and will have no serious detrimental effect upon adjacent properties or the occupants thereof. The Ohio EPA may impose such conditions as may be necessary to accomplish the purpose of Chapter 3745-19 of the Ohio Administrative Code.
- (4) Except as provided in subsection (a)(6) hereof, permission to open burn must be obtained for each specific project. In emergencies where public health or environmental quality will be seriously threatened by delay while written permission is sought, the fire may be set with oral permission of the Ohio EPA.
- (5) Violations of any of the conditions set forth by the Ohio EPA in granting permission to open burn shall be grounds for revocation of such permission and refusal to grant future permission, as well as for the imposition of other sanctions provided by law.
- (6) The Ohio Department of Commerce, Division of State Fire Marshal, may request permission to open burn on an annual basis for the purpose of training firefighters on pre-flashover conditions using the Ohio fire academy's mobile training laboratory at either the academy or at other training sites in Ohio. The annual application required pursuant to subsection (a)(1) hereof shall contain information as required in paragraph (a)(2) of this rule, except the information required in subsections (a)(2)C. and (A)(2)D. hereof need not be provided unless it is available at the time of submittal of the application. The academy shall contact the appropriate Ohio EPA district office or local air agency at least five working days before each training session of the date or dates when the training session will take place and its location. Saturday, Sunday and legal holidays shall not be considered a working day.
- (7) For open burning defined under subsection (d)(2) of Section 1511.03, permission to open burn shall not be granted unless the applicant provides proof of written notice of intent to demolish receive by the appropriate Ohio EPA field office in accordance with Rule 3745-20-03 of the Ohio Administrative Code.

(b) Notification.

- (1) Notification shall be submitted in writing at least ten working days before the fire is to be set. Saturday, Sunday and legal holidays shall not be considered a working day. It shall be in such form and contain such information as shall be required by the Ohio EPA.
- (2) Such notification shall inform the Ohio EPA regarding:
 - A. The purpose of the proposed burning;
 - B. The nature and quantities of materials to be burned;
 - C. The date or dates when such burning will take place; and
 - D. The location of the burning site.
- (3) The Ohio EPA, after receiving notification, may determine that the open burning is not allowed under Chapter 3745-19 of the Administrative Code and the Ohio EPA shall notify the applicant to this effect. (OAC 3745-19-05)

1511.05 OPEN BURNING; RECREATIONAL FIRES; PORTABLE OUTDOOR FIREPLACES.

- (a) <u>General</u>. A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with this section.
- (b) <u>Prohibited Open Burning</u>. Open burning that is offensive or objectionable because of smoke emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.
- (c) <u>Permit Required.</u> A permit shall be obtained from the Fire Code Official in accordance with Rule 1301:7-7-01 of the Ohio Fire Code prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.
- (d) <u>Authorization.</u> Where required by state or local law or regulations, open burning shall only be permitted with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed.
- (e) <u>Extinguishment Authority</u>. The Fire Code Official is authorized to order the extinguishment by the permit holder, another person responsible or the Fire Department of open burning that creates or adds to a hazardous or objectionable situation.
- (f) <u>Location</u>. The location for open burning shall not be less than 50 feet (15,240 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet (15,240 mm) of any structure.

(g) <u>Exceptions.</u>

- (1) Fires in approved containers that are not less than 15 feet (4572 mm) from a structure.
- (2) The minimum required distance from a structure shall be 25 feet (7620 mm) where the pile size is 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height.
 - A. <u>Bonfires.</u> A bonfire shall not be conducted within 50 feet (15,240 mm) of a structure or combustible material unless the fire is contained in a barbecue pit. Conditions which could cause a fire to spread within 50 feet (15,240 mm) of a structure shall be eliminated prior to ignition.
 - B. Recreational fires. Recreational fires shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions which could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition.
 - C. <u>Portable outdoor fireplaces.</u> Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.

Exception: Portable outdoor fireplaces used at one- and two-family dwellings.

(h) <u>Attendance.</u> Open burning, bonfires, recreational fires and use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher complying with paragraph (F)(906) of rule 1301:7-7-09 of the Administrative Code with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization. (OAC 1301:7-7-03)

1511.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both.

CHAPTER 1519 Fireworks

1519.01	Definitions.	1519.04	Possession, sale or
1519.02	Public exhibition permit		discharge prohibited;
	required; fee; bond;		exceptions.
	records.	1519.05	Application.
1519.03	Unlawful conduct by	1519.99	Penalty.
	exhibitor.		•

CROSS REFERENCES

Manufacturers to comply with building and zoning ordinances - see Ohio R.C. 3743.06(F)

Wholesalers to comply with building and zoning ordinances - see Ohio R.C. 3743.19(G)

Arrests, seizure of fireworks by certified fire safety inspector - see Ohio R.C. 3743.68

Conflict of Fire Marshal's rules with rules of Ohio Board of Building Standards - see Ohio R.C. 3781.11(D)

1519.01 DEFINITIONS.

As used in this chapter:

- (a) "Beer" and "intoxicating liquor" have the same meanings as in Ohio R.C. 4301.01.
- (b) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition and that is ignited by pulling the ends of the string.
- (c) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.
- (d) (1) "1.3 G fireworks" means display fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.3" in Title 49, Code of Federal Regulations.
 - (2) "1.4 G fireworks" means consumer fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.4" in Title 49, Code of Federal Regulations.
- (e) "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.

- (f) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation, except ordinary matches and except as provided in Section 1519.05.
- (g) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to Ohio R.C. 3743.50 to 3743.55.
- (h) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to Ohio R.C. 3743.02 to 3743.08.
- (i) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to Ohio R.C. 3743.15 to 3743.21.
- (j) "Novelties and trick noisemakers" include the following items:
 - (1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers and snappers;
 - (2) Snakes or glow worms;
 - (3) Smoke devices;
 - (4) Trick matches.
- (k) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling string protruding from the item, and from which paper streamers are expelled when the item is ignited.
- (1) "Railroad" means any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs and sidings installed and primarily used in serving a mine, quarry or plant.
- (m) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.
- (n) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.
- (o) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.
- (p) "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.
- (q) "Wire sparkler" means a sparkler consisting of a wire or stick coated with a non-explosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than one hundred grams of this mixture.

 (ORC 3743.01)

1519.02 PUBLIC EXHIBITION PERMIT REQUIRED; FEE; BOND; RECORDS.

(a) A licensed exhibitor of fireworks who wishes to conduct a public fireworks exhibition within the Municipality shall apply for approval to conduct the exhibition to the Fire Chief and from the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer.

The required approval shall be evidenced by the Fire Chief or Fire Prevention Officer and by the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer, signing a permit for the exhibition, the form for which shall be prescribed by the State Fire Marshal. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the Fire Marshal or, if it is available, from the Fire Chief, Fire Prevention Officer, Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer.

(b) Before a permit is signed and issued to a licensed exhibitor of fireworks, the Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show the applicant's license as an exhibitor of fireworks to the Fire Chief or Fire Prevention Officer.

The Fire Chief or Fire Prevention Officer and the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall give approval to conduct a public fireworks exhibition only if satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the Fire Marshal pursuant to Ohio R.C. 3743.53(B) and (E) and that the applicant is, in fact, a licensed exhibitor of fireworks. The Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke the permit for noncompliance with the rules.

(c) The Fire Chief or Fire Prevention Officer and the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall not issue a permit until the applicant pays a permit fee of twenty-five dollars (\$25.00) plus any necessary costs of investigation of the applicant and of inspecting the premises on which the exhibition will be conducted.

Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars (\$1,000,000), with surety satisfactory to the Fire Chief or Fire Prevention Officer and to Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death or loss to persons or property emanating from the fireworks exhibition, or proof of insurance coverage of at least one million dollars (\$1,000,000) for liability arising from injury, death or loss to persons or property emanating from the fireworks exhibition. The Legislative Authority may require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those required by this subsection. The Fire Chief or Fire Prevention Officer and Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this subsection.

(d) (1) Each permit for a fireworks exhibition issued by the Fire Chief or Fire Prevention Officer and by the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall contain a distinct number, designate the Municipality, and identify the certified Fire Safety Inspector, Fire Chief or Fire Prevention Officer who will be present before, during, and after the exhibition, where appropriate. A copy of each permit issued shall be forwarded by the Fire Chief or Fire Prevention Officer and by the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, issuing it to the Fire Marshal, who shall keep a record of the permits received. A permit is not transferable or assignable.

- (2) The Fire Chief, Fire Prevention Officer and Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall keep a record of issued permits for fireworks exhibitions. In this list, the Fire Chief, Fire Prevention Officer, Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall list the name of the exhibitor, the exhibitor's license number, the premises on which the exhibition will be conducted, the date and time of the exhibition and the number of the permit issued to the exhibitor for the exhibition.
- (e) The governing authority having jurisdiction in the location where an exhibition is to take place shall require that a certified Fire Safety Inspector, Fire Chief, or Fire Prevention Officer be present before, during, and after the exhibition, and shall require the certified Fire Safety Inspector, Fire Chief, or Fire Prevention Officer to inspect the premises where the exhibition is to take place and determine whether the exhibition is in compliance with this chapter and Ohio R.C. Chapter 3743. (ORC 3743.54)

1519.03 UNLAWFUL CONDUCT BY EXHIBITOR.

- (a) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the Fire Marshal pursuant to Ohio R.C. 3743.53(B) and (E) or to comply with Divisions (C) and (D) of that section.
- (b) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to Section 1519.02 or if a permit so secured is revoked by the Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement official or a designee of such Police Chief or other similar law enforcement official pursuant to that section.
- (c) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with Ohio R.C. 3743.54 and 3743.55.
- (d) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have possession or control of, or be under the influence of, any intoxicating liquor, beer or controlled substance while on the premises on which the exhibition is being conducted.
- (e) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the Fire Marshal under Ohio R.C. 3743.56. (ORC 3743.64)

1519.04 POSSESSION, SALE OR DISCHARGE PROHIBITED; EXCEPTIONS.

(a) No person shall possess fireworks in this Municipality or shall possess for sale or sell fireworks in this Municipality, except a licensed manufacturer of fireworks as authorized by Ohio R.C. 3743.02 to 3743.08, a licensed wholesaler of fireworks as authorized by Ohio R.C. 3743.41, a shipping permit holder as authorized by Ohio R.C. 3743.40, an out-of-state resident as authorized by Ohio R.C. 3743.44, a resident of this State as authorized by Ohio R.C. 3743.55 and Section 1519.02 and except as provided in Section 1519.05.

- (b) Except as provided in Section 1519.05 and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 to 3743.55 and Section 1519.02, no person shall discharge, ignite or explode any fireworks in this Municipality.
- (c) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.
- (d) No person shall sell fireworks of any kind to a person under eighteen years of age. No person under eighteen years of age shall enter a fireworks sales showroom unless that person is accompanied by a parent, legal guardian, or other responsible adult. No person under eighteen years of age shall touch or possess fireworks on a licensed premises without the consent of the licensee. A licensee may eject any person from a licensed premises that is in any way disruptive to the safe operation of the premises.
- (e) Except as otherwise provided in Ohio R.C. 3743.44, no person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder, shall possess 1.3 G fireworks. (ORC 3743.65)

1519.05 APPLICATION.

This chapter does not prohibit or apply to the following:

- (a) The manufacture, sale, possession, transportation, storage or use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation or highway use;
- (b) The manufacture, sale, possession, transportation, storage or use of fusees, torpedoes or other signals necessary for the safe operation of railroads;
- (c) The manufacture, sale, possession, transportation, storage or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals or for ceremonial purposes;
- (d) The manufacture for, the transportation, storage, possession or use by, or sale to the Armed Forces of the United States and the militia of this State of pyrotechnic devices;
- (e) The manufacture, sale, possession, transportation, storage or use of toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or apply to the manufacture, sale, possession, transportation, storage or use of those caps;
- (f) The manufacture, sale, possession, transportation, storage or use of novelties and trick noisemakers, auto burglar alarms or model rockets and model rocket motors designed, sold and used for the purpose of propelling recoverable aero models;
- (g) The manufacture, sale, possession, transportation, storage or use of wire sparklers.
 (h) The conduct of radio-controlled special effect exhibitions that use an explosive black powder charge of not more than one-quarter pound per charge, and that are not connected in any manner to propellant charges, provided that the exhibition complies with all of following:

- No explosive aerial display is conducted in the exhibition;
- (1) (2) The exhibition is separated from spectators by not less than two hundred
- (3) The person conducting the exhibition complies with regulations of the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury and the United States Department of Transportation with respect to the storage and transport of the explosive black powder used in the exhibition. (ORC 3743.80)

1519.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree for a first offense and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months or both. (ORC 3743.99(C))