

North Canton City Council
Ordinance, Rules and Claims Committee

Ordinance No. 61 - 2019

An ordinance to approve and adopt current replacement pages to the Codified Ordinances of the City of North Canton, and declaring the same to be an emergency.

WHEREAS, Ohio's Constitution requires certain provisions of the City's Codified Ordinances be amended to conform with state law; and

WHEREAS, City Council has passed various ordinances of a general and permanent nature that require codification into our current set of ordinances; and

WHEREAS, the City has heretofore contracted with the Walter H. Drane Company to codify, prepare, and publish, such revisions in the form of replacement pages to our codified ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, STATE OF OHIO:

- Section 1. That, in accordance with Ohio Revised Code Section 731.23, the ordinances of the City of North Canton, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections within the 2019 Replacement Pages to the Codified Ordinances are hereby approved and adopted.
- Section 2. That the following sections and chapters are hereby added, amended, or repealed as respectively indicated in order to comply with current State law.

Traffic Code

- 301.04 Bicycle, Motorized Bicycle, Moped, Electric Bicycle. (Amended)
- 301.20 Motor Vehicle. (Amended)
- 301.251 Predicate Motor Vehicle Offense. (Amended)
- 301.361 Shared-Use Path. (Amended)
- 301.51 Vehicle. (Amended)
- 301.53 Waste Collection Vehicle. (Added)
- 303.06 Freeway Use Restricted. (Amended)
- 303.991 Committing an Offense While Distracted Penalty. (Added)
- 313.01 Obedience to Traffic Control Devices. (Amended)
- 313.09 Driver's Duties Upon Approaching Ambiguous Traffic Signal. (Amended)
- 331.01 Driving Upon Right Side of Roadway; Exceptions. (Amended)
- 331.02 Passing to Right When Proceeding in Opposite Directions. (Amended)
- 331.03 Overtaking, Passing to Left; Driver's Duties. (Amended)
- 331.04 Overtaking and Passing Upon Right. (Amended)
- 331.05 Overtaking, Passing to Left of Center. (Amended)
- 331.06 Additional Restrictions on Driving upon Left Side of Roadway. (Amended)
- 331.07 Hazardous or No Passing Zones. (Amended)
- 331.08 Driving in Marked Lanes or Continuous Lines of Traffic. (Amended)
- 331.09 Following Too Closely. (Amended)

Traffic Code (Cont.)

- 331.10 Turning at Intersections. (Amended)
- 331.12 "U" Turns Restricted. (Amended)
- 331.13 Starting and Backing Vehicles. (Amended)
- 331.14 Signals Before Changing Course, Turning or Stopping. (Amended)
- 331.15 Hand and Arm Signals. (Amended)
- 331.16 Right of Way at Intersections. (Amended)
- 331.17 Right of Way When Turning Left. (Amended)
- 331.18 Operation of Vehicle at Yield Signs. (Amended)
- 331.19 Operation of Vehicle at Stop Signs. (Amended)
- 331.20 Emergency or Public Safety Vehicles at Stop Signals or Signs. (Amended)
- 331.22 Driving onto Roadway from Place Other Than Roadway: Duty to Yield. (Amended)
- 331.23 Driving onto Roadway from Place Other Than Roadway: Stopping at Sidewalk. (Amended)
- 331.24 Right of Way of Funeral Procession. (Amended)
- 331.26 Driving Upon Street Posted as Closed for Repair. (Amended)
- 331.27 Following and Parking Near Emergency or Safety Vehicles. (Amended)
- 331.28 Driving Over Fire Hose. (Amended)
- 331.29 Driving Through Safety Zone. (Amended)
- 331.30 One-Way Streets and Rotary Traffic Islands. (Amended)
- 331.31 Driving Upon Divided Roadways. (Amended)
- 331.33 Obstructing Intersection, Crosswalk or Grade Crossing. (Amended)
- 331.37 Driving Upon Sidewalks, Street Lawns or Curbs. (Amended)
- 331.40 Stopping at Grade Crossing. (Amended)
- 333.01 Driving Under the Influence. (Amended)
- 333.03 Maximum Speed Limits. (Amended)
- 333.031 Approaching a Public Safety Vehicle. (Amended)
- 333.04 Stopping Vehicle. (Amended)
- 333.05 Speed Limitations Over Bridges. (Amended)
- 337.16 Number of Lights. (Amended)
- 337.27 Drivers and Passengers Required to Wear Seat Belts. (Amended)
- 337.28 Use of Sunscreening, Nontransparent and Reflectorized Materials. (Amended)
- 351.03 Prohibited Standing of Parking Places. (Amended)
- 371.01 Right of Way in Crosswalk. (Amended)
- 371.02 Right of Way of Blind Person. (Amended)
- 371.07 Right of Way on Sidewalk. (Amended)
- 373.01 Code Application to Bicycles. (Amended)
- 373.02 Riding Upon Seats. (Amended)
- 373.03 Attaching Bicycle to Vehicle. (Amended)
- 373.04 Riding Bicycles and Motorcycles Abreast. (Amended)
- 373.05 Signal Device on Bicycle. (Amended)
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- 373.07 Riding Bicycle on Right Side of Roadway. (Amended)
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- 373.11 Paths Exclusively for Bicycles. (Amended)
- 373.12 Electric Bicycles. (Added)

General Offenses Code

- 509.03 Disorderly Conduct. (Amended)
- 513.01 Drug Abuse Control Definitions. (Amended)
- 513.03 Drug Abuse; Controlled Substance Use. (Amended)
- 513.05 Permitting Drug Abuse. (Amended)
- 529.07 Open Container Prohibited. (Amended)
- 533.04 Sexual Imposition. (Amended)
- 533.07 Public Indecency. (Amended)
- 533.16 Dissemination of Private Sexual Images. (Added)
- 545.10 Misuse of Credit Cards. (Amended)
- 549.01 Weapons Definitions. (Amended)
- 549.04 Improperly Handling a Firearm in a Motor Vehicle. (Amended)
- 549.06 Unlawful Transactions in Weapons. (Amended)

Section 3. That the complete text of the sections listed above are set forth in full in the current codified ordinance replacement pages, which are attached to and incorporated herein as Exhibit A. Any summary publication of this ordinance shall include a complete listing of these sections. Notice of adoption of each new section by reference to its title shall constitute sufficient publication of new matter contained therein.

Section 4. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and peace of the City of North Canton, for the reason that there exists an imperative necessity for the earliest publication and distribution of the current replacement pages of the codified ordinances to City officials and residents so as to facilitate administration, daily operation, and avoid legal entanglements including conflicts with general state law; wherefore, provided it receives the affirmative vote of six or more members of Council elected thereto, this ordinance shall take effect and be in full force upon its adoption by Council and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Passed in Council this 26 day of August 2019


David Held, Mayor

Signed: 8/26, 2019

ATTEST:



Laura Brown, Director of Finance

**INSTRUCTIONS FOR INSERTING
2019 REPLACEMENT PAGES
FOR THE
CODIFIED ORDINANCES OF NORTH CANTON**

All new replacement pages bear the footnote "2019 Replacement". Please discard old pages and insert these new replacement pages immediately as directed in the following table.

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**CODIFIED
ORDINANCES
OF THE
CITY OF
NORTH CANTON
OHIO**

Complete to July 8, 2019

CERTIFICATION

We, David J. Held, Mayor, and Laura Brown, Clerk of Council, of the City of North Canton, Ohio, pursuant to Ohio Revised Code 731.23 and 731.42, hereby certify that the general and permanent ordinances of the City of North Canton, as revised, rearranged, compiled, renumbered as to sections, recodified and printed herewith in component codes are correctly set forth and constitute the Codified Ordinances of the City of North Canton, Ohio, 1993, as amended to July 8, 2019.

/s/ David J. Held
Mayor

/s/ Laura Brown
Clerk of Council

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

CITY OF NORTH CANTON

ROSTER OF OFFICIALS

(2019)

COUNCIL

| | |
|------------------|--------------------------|
| Douglas V. Foltz | Ward One, Vice President |
| Daniel J. Peters | Ward Two, President |
| Stephanie Werren | Ward Three |
| Dominic Fonte | Ward Four |
| Mark R. Cerreta | At Large |
| Daryl Revoldt | At Large |
| Marcia Kiesling | At Large |

ADMINISTRATION

| | |
|----------------|----------------------------|
| David J. Held | Mayor |
| Patrick DeOrio | Director of Administration |
| Timothy L. Fox | Director of Law |
| Laura Brown | Director of Finance |
| Laura Brown | Clerk of Council |
| Robert Graham | City Engineer |
| John Minock | Chief of Police |
| John P. Bacon | Chief of Fire & EMS |

The publisher
expresses his appreciation
to

LAURA BROWN
Clerk of Council

and to all other officers and employees
who gave their time and counsel to
this 1993 recodification of the
North Canton City Ordinances
and the preparation of
current replacement pages

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| <u>Ord. No.</u> | <u>Date</u> | <u>Description</u> |
|-----------------|-------------|---|
| 1862 | 4-13-53 | Orchard St. grade. |
| 1939 | 1-23-56 | Change Mohler Ct. to Wileman St. |
| 1962 | 11-12-56 | Change West St. to Hillcrest Dr. |
| 2064 | 7-13-56 | Change part of Sutton Ave. to Clearmont Ave. |
| 2153 | 6-26-61 | Change Lorena Dr. from Sunset Blvd. to Lindy Lane and Lucinda Dr. from Lindy Lane to Linwood Ave. to Lorena St. |
| 2192 | 5-14-62 | Change name, legal description. |
| 2298 | 3-9-64 | Change W. Hill St. from S. Main St. west to corporation line to Everhard Rd., S.W. |
| 2403 | 8-9-65 | Change Central Ave., S.E. from Schnider Rd., S.E. to Mississippi Ave., S.E. to be called Pershing Rd., S.E. (see also Res. 596). |
| 2998 | 7-26-71 | Change Fairview St., S.W. to Far View Road, S.W. |
| 3538 | 6-9-75 | Naming an unnamed alley (360 ft. east and parallel with Royer Ave.) as Mohler Ct. |
| 3544 | 5-27-75 | Naming by number numerous alleys as alleys 1 to 22 and 24 to 61. |
| 91-79 | 6-25-79 | Changing the name of Ronald Avenue, N.W. from its terminus at Postiy Street, N.W. in a northerly direction to the corporate limits of the City to Barchester Avenue, N.W. |
| 108-87 | 12-14-87 | Alley 4, 310 ft. east of McKinley Ave. S.E. to Fairhart Ave. S.E. |
| 51-94 | 4-25-94 | Changing the name of Alley Number 3, located approximately 200 feet west of North Main St. and beginning at 5th St. N.W. and running in a north-south direction for approximately 520 feet to 7th St. N.W., to Fair Oaks N.W. |
| 99-03 | 8-25-03 | Changing Easton St. N.W. to East Maple St., effective 10-1-03. |
| 91-05 | 7-11-05 | Changing Alley No. 39, 180 ft. E of S. Main St., parallel therewith, beginning at Glenwood St. S.E., running N-S to Bitzer St. S.E. |
| 76-2016 | 11-14-16 | Changing the name of alley numbers 55 and 22, within the corporate limits of the City to Aiden Way. |



CHARTER
OF THE MUNICIPALITY OF
NORTH CANTON, OHIO

EDITOR'S NOTE: The Charter was originally adopted by the electors at an election on November 8, 1960. A date appearing in parentheses at the end of a section heading indicates the section was subsequently adopted or amended on the date given.

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Section 2.04. Meetings.

After the organizational meeting, Council shall meet at such times as may be prescribed by its rules, regulations, by-laws, or by resolution or ordinance, except that it shall hold regular meetings at least once during each calendar month.

Special meetings of the Council may be called as provided by its rules, regulations, by-laws, or by resolution or by ordinance. In the absence of any such provisions, special meetings may be called by a vote of Council taken at any regular or special meeting thereof, or shall be called by the Clerk of Council upon the written request of the Mayor, or the President of Council, or by any three (3) members of Council.

Notice in writing of each such special meeting called at the request of the Mayor, President of Council, or by three (3) members of Council, shall state the date and time, subject or subjects to be considered, and no other subject or subjects shall be considered thereat. The Clerk of Council shall cause the written notice to be served either personally or by leaving a copy thereof at the member's usual place of residence, not less than twenty-four (24) hours preceding the time for the meeting. In the event that a special meeting is called by a vote of Council taken at any regular meeting or special meeting from which any member of Council is absent, written notice of such special meeting shall be given such absentee in the manner and form hereinbefore provided.

Service of such notice may be waived by an instrument in writing signed prior to the hour of such meeting and the Mayor and any Council member shall be deemed conclusively to have waived such notice by attendance at any such meeting.

All regular and special meetings of Council shall be held at the Council Chambers, or at such other places in the municipality as Council may direct, providing that notice of change in location shall be posted at the Council Chambers prior to the meeting. All meetings of the Council shall be open to the public, provided however that Council and committees of Council may conduct meetings which are not open to the public (executive sessions) provided said executive sessions shall be held in compliance with the exceptions for executive sessions set forth in Section 121.22 of the Revised Code Meeting of Public Bodies to be Public; Exceptions currently in effect or as may be subsequently amended. In the event Section 121.22 of the Revised Code is repealed, Council may by Council rules establish the criteria for executive sessions.
(Amended 11-6-07.)

Section 2.05. Legislative Procedure.

Four (4) members of Council shall constitute a quorum to transact business, but a lesser number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by resolution or ordinance.

Council shall adopt its own rules, regulations, or by-laws and shall keep a journal of all its proceedings. The journal shall be open for public inspection at all reasonable times. The voting upon any ordinance or resolution shall be by voice vote, and Clerk of Council shall record the vote of each Councilperson upon the journal.

All legislative action of Council shall be by resolution or ordinance introduced in written or printed form, each of which shall contain no more than one subject, which subject shall be clearly expressed in its title.

No resolution or ordinance shall be revised or amended unless the resolution or ordinance superseding it contains the entire resolution or ordinance so revised or amended, or the section or sections so revised or amended, and, having been revised or amended, the original resolution or ordinance, or section or sections, shall be considered to be repealed.

An affirmative vote of at least four members of Council shall be required for the enactment of every resolution or ordinance, unless a larger number be required by the provisions of this Charter. Every resolution, except those of strictly ceremonial nature or authorizing the expenditure of funds specifically appropriated, and every ordinance, shall be fully and distinctly read at three different, regular Council meetings unless Council votes to suspend this rule. Such suspension of the rule shall require the affirmative vote of at least six members of Council. If this rule is suspended in accordance with the foregoing provisions, then the resolution or ordinance shall be read at least once before passage. Ordinances and resolutions shall be deemed to have been read if a written or printed copy of the ordinance or resolution shall have been furnished to each member of Council prior to its introduction and if the title thereof is fully read, provided that such ordinance or resolution shall be read in full if so directed by motion approved by affirmative vote of at least a majority of the members of Council.

Each emergency resolution and ordinance shall contain a statement of the necessity for such emergency action, and its enactment shall require the affirmative vote of at least six (6) members of Council.

No action of Council authorizing the surrender or joint exercise of any of its powers, or in granting a franchise, or in the enactment, amendment, or repeal of any zoning or building resolution or ordinance, or in the changing of any ward boundaries, or in authorizing any change in the boundaries of the municipality, shall be enacted as an emergency measure, or shall be enacted under a suspension of rules as provided in this section.

Each resolution and ordinance providing for the appropriation of money, or for an annual tax levy, or for improvements petitioned for by the owners of a majority of the adjacent property to be benefited and specially assessed therefor, and any emergency resolution or ordinance necessary for the immediate preservation of public peace, health or safety, shall take effect, unless a later date be specified therein, upon its approval by the Mayor, or upon the expiration of the time within which it may be vetoed by the Mayor, or upon its passage after veto by the Mayor, as the case may be. No other resolution or ordinance shall become effective until thirty (30) days after its approval by the Mayor, or upon the expiration of the time within which it may be vetoed by the Mayor, or upon passage after veto by the Mayor, as the case may be.

All ordinances and resolutions passed by Council shall be published once in a newspaper of general circulation within the municipality by title only, unless otherwise designated by a majority of Council. The manner of publication shall be as follows:

- a. Ordinances which are revised, codified, rearranged, published in book form and certified as correct by the Clerk of Council and the Mayor shall be given public notice as prescribed by Section 731.23 of the OHIO REVISED CODE.
- b. Technical ordinances and codes shall be given public notice as prescribed by Section 731.231 of the OHIO REVISED CODE.

- c. Public notice of all other statements, measures, orders, proclamations by Council may be given public notice in a manner designated by a majority vote of Council.

No action of Council authorizing the surrender or joint exercise of any of its powers, or in granting any franchise, or in the enactment, amendment, or repeal of any zoning or building resolution or ordinance, or in the changing of any ward boundaries, or in authorizing any change in the boundaries of the municipality, shall be enacted, unless public notice has been fulfilled at least seven (7) days before final enactment by Council.

(Amended 5-7-68; 11-8-77; 11-8-05; 11-7-17)

Section 2.06. Council Relationship to Administrative Officers.

Neither Council nor its committees, shall in any manner take part in the discipline nor give orders to any subordinates and employees in the administrative service of the municipality responsible to the Mayor, but must deal directly with the Mayor. Council may inquire into the conduct of any office or department and into the performance of any contract or any of the affairs of the municipality.

**ARTICLE III
EXECUTIVE AND ADMINISTRATIVE OFFICERS
AND DEPARTMENTS**

Section 3.01. The Mayor.

The Mayor shall be elected by the popular vote of the electors of the Municipality for a two-year term to begin on the first day of December next following his/her election.

The Mayor shall have the following executive powers and duties:

- (1) As elected executive of the municipality the Mayor shall be responsible to the electors for enforcement of all laws and ordinances, and for control and proper operation of all administrative departments and divisions as provided by the Charter as herein set forth or later amended, or by Council.
- (2) The Mayor shall appoint:
 - (a) A Director of Administration, which appointment shall be subject to and take effect upon confirmation by a majority vote of Council. The Director of Administration shall be responsible to the Mayor for the general administration of the affairs of the municipality.
 - (b) Any additional administrative officers of special classification as may be established by Council, provided, however, that the Mayor may delegate power of appointment for such officers as are assigned under responsibility of the Director of Administration.

- (3) The Mayor shall be responsible for preparation of a schedule of anticipated expenditures for the next succeeding fiscal year to be presented annually to Council by June 15. The Mayor shall be responsible for the proper execution of appropriation ordinances of Council.
- (4) The Mayor shall sign, on behalf of the municipality, all contracts, conveyances, evidences of indebtedness and all other instruments to which the municipality is a party. The Mayor shall be responsible for the enforcement of terms and conditions in any franchise or contract to which the municipality is a party.
- (5) The Mayor shall be recognized as the official and ceremonial head of Government by the Governor for military purposes.

The Mayor shall have all the judicial powers granted by the general laws of Ohio to Mayors of municipalities of the class of North Canton, unless and until other lawful provisions shall be made for the exercise of such power.

The Mayor shall have the following legislative powers and duties:

- (1) The Mayor shall attend all meetings of Council with the right to introduce ordinances, resolutions and motions and participate in discussions, but without vote therein.
- (2) Every ordinance or resolution of the Council shall be presented to the Mayor for consideration. The Mayor may approve or disapprove the whole of any resolution or ordinance, or any item of an ordinance appropriating money. Unless an ordinance or resolution is returned to the Clerk of Council either signed or with written notice of disapproval within ten (10) days after submission to the Mayor, it shall take effect as though the Mayor had signed it. When the Mayor has disapproved an ordinance or resolution or item of it, as herein provided, the Council may within thirty (30) days thereafter, reconsider it, and if such legislation shall be then approved by the affirmative vote of five (5) or more members of Council, it shall become effective notwithstanding the veto of the Mayor.

When the Mayor is temporarily absent from the Municipality or unable for any cause to perform his/her duties, the Director of Administration shall act as Mayor with the same powers and duties, except that all ceremonial powers shall be performed by the President of Council, and all judicial powers shall be performed by the President of Council, Magistrate or Judicial alternate. (Amended 11-2-99; 11-6-07)

Section 3.02. The Director of Administration.

The Director of Administration shall receive authority from and be responsible to the Mayor for general supervision and proper operation of administrative departments established herein or as established by Council and delegated by the Mayor as the responsibility of the Director of Administration.

The Director of Administration shall be a resident or shall establish residence in the municipality of North Canton within a reasonable time after appointment and shall remain a resident during his/her tenure of office.

(2) **PLANNING COMMISSION.** The Planning Commission shall consist of five (5) qualified electors of the municipality to be appointed by the Mayor. The appointed commissioners shall hold no other municipal office or employment or membership on any board or commission established by this Charter or by ordinance. Initial appointment of five (5) elector members shall be terms of one (1), two (2), three (3), four (4), and five (5) years with subsequent appointments for five (5) years except vacancies shall be filled only for the remainder of the unexpired term of the commissioner being replaced. The Director of Administration, City Engineer, Director of Permits, and a member of Council, selected by Council, shall serve as non-voting members of the commission in an advisory capacity.

The Planning Commission shall have such powers as may be conferred on it by ordinance of Council, concerning public buildings, streets, municipal property, recommendations for zoning and re-zoning, and such other powers as may hereafter be conferred upon it by ordinance of the Council or the general laws of Ohio.

(3) **ZONING AND BUILDING STANDARDS BOARD OF APPEALS.** The Zoning and Building Standards Board of Appeals shall consist of five (5) qualified electors of the municipality to be appointed by the Mayor. The appointed commissioners shall hold no other municipal office or employment or membership on any board or commission established by this Charter or by ordinance. Initial appointments of the five (5) elector members shall be terms of one (1), two (2), three (3), four (4) and five (5) years with subsequent appointments for five (5) years, except vacancies shall be filled only for the remainder of the unexpired term of the commissioner being replaced. The Director of Administration, City Engineer, Director of Permits, and a member of Council, selected by Council, shall serve as non-voting members of the board in an advisory capacity.

The Zoning and Building Standards Board of Appeals shall hear and decide: (1) appeals from orders or decisions of administrative/City officials or agencies regarding enforcement of building and zoning statutes and ordinances; (2) variances of building and zoning statutes and ordinances; and (3) such other duties as Council may designate.
(Amended 11-5-63; 11-7-17)

ARTICLE IV TAXATION AND FINANCE

Section 4.01. Effect of State Law.

Provisions of the Constitution and laws of Ohio, or amendments thereto, relating generally to budgets, appropriations, deposits, expenditures, debts, bonds, contracts and other fiscal matters of a municipality shall be applicable to the municipality except as modified by, or necessarily inconsistent with the provisions of this Charter.

Section 4.02. Tax Limitations.

The power of Council to levy taxes shall be subject to the limitations provided by the Constitution and laws of Ohio, and nothing contained in this Charter shall be construed to authorize the levy of any taxes in excess of said limitations without a vote of the people.

Section 4.03. Fiscal Year.

The fiscal budget and accounting year shall be the calendar year.
(Amended 11-7-17)

Section 4.04. Salaries and Bonds.

The Council shall have the power to fix the compensation of its members and that of the Mayor, the Director of Administration, the Director of Finance, the Director of Law, officers of the municipality, of each job classification, and the members of any board or commission of the municipality, whether elected, appointed, or chosen.

The Mayor, Director of Administration, Director of Finance, and other such officials or employees, or members of boards and commissions as Council may require, shall give bond in such amount and with such surety as may be approved by Council. The premium for such bonds shall be paid by the municipality.

The compensation of the Mayor and each member of Council shall be fixed at least thirty days prior to the filing date of the nominating petitions for the terms beginning on the next succeeding first of December, and shall not be changed during the term of office or any part thereof.

The Council may authorize the payment or reimbursement of expenses incurred by any officer, employee or member of any board or commission of the municipality for travel, membership in an association, or otherwise in the interest of the municipality.

(Amended 11-7-78)

Section 4.05. Contracts and Purchasing.

The Mayor may, within the amounts and items appropriated by the Council, make purchases and enter into contracts in behalf of the Municipality involving expenditures not in excess of \$10,000.00 or such greater amount as shall be established from time to time by Section 735.05 of the Ohio Revised Code. No contract involving expenditures in excess of \$10,000.00 or such greater amount as shall be established from time to time by Section 735.05 of the Ohio Revised Code shall be entered into without prior approval of the Board of Control.

The Board of Control for consideration and awarding of contracts shall consist of the Mayor, Director of Administration, Director of Finance, and Director of Law. All meetings of the Board of Control shall be open to the public. All actions of the Board of Control shall be by a vote of a majority of the members of the Board of Control.

No purchase or contract involving an expenditure in excess of \$10,000.00 or such greater amount as shall be established from time to time by Section 735.05 of the Ohio Revised Code shall be made except with a qualified, responsible bidder submitting the lowest and best bid as determined by the Board of Control after advertising for bids in a newspaper of general circulation within the Municipality on two successive weeks. The decision of the Board of Control as to the qualifications and responsibility of the bidder shall be final, provided the Board of Control acts in good faith. The Board of Control may reserve the right to reject any and all bids.

Section 6.03. Interpretation.

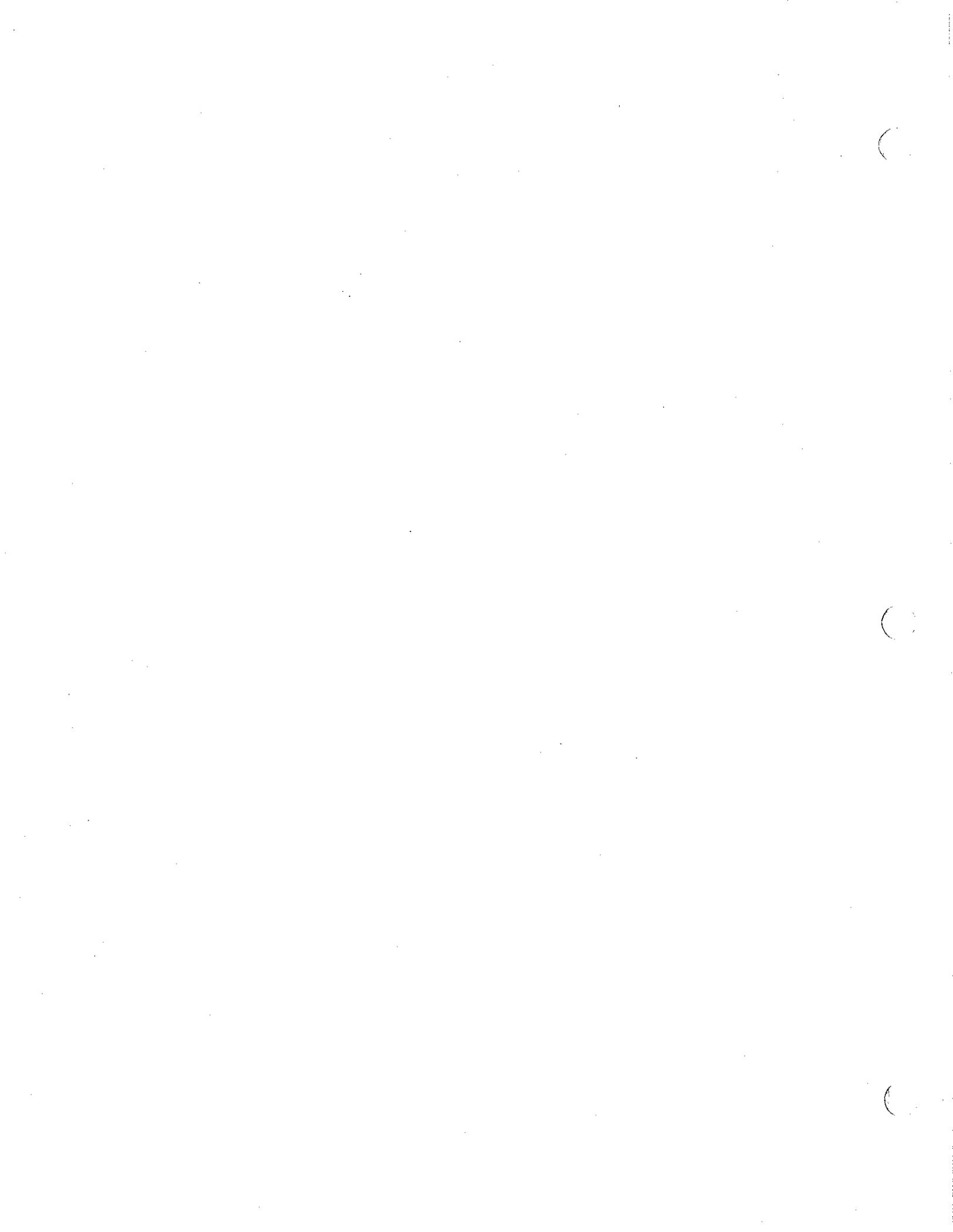
The Article and Section headings herein have been inserted for convenient reference and are not intended to define, or limit the scope of, or otherwise affect, any provision of this Charter.

Section 6.04. Charter Review.

In January, 1967, and in January of each tenth year thereafter, the Council shall appoint a commission of fifteen (15) electors of the municipality who hold no other municipal elective or appointive office, except on advisory bodies of the municipality, as members of a Charter Review Commission. The commission shall appoint a chairperson, vice chairperson, and a secretary. Such commission shall review the Municipal Charter, and within five (5) calendar months after such appointment, recommend to Council such alterations, revisions, and amendments, if any, to this Charter, as in the judgment of the Charter Review Commission are desirable by the majority vote of the Commission members. The Council shall cause the recommendations of the Charter Review Commission to be published in a newspaper of general circulation within the municipality on two successive weeks, and Council shall hold a public hearing on such recommendations within one week after the second publication thereof. Meetings of the Charter Review Commission shall be public meetings. (Amended 11-7-17)

Section 6.05. Amendments.

This Charter may be amended in accordance with the terms and provisions of the Constitution of the State of Ohio. If two or more inconsistent proposed amendments on the same subject shall be submitted at the same election, only the one of such amendments receiving the largest affirmative vote, not less than a majority, shall become a part of this Charter.



**CHAPTER 107
Public Records**

107.01 Fees for photocopies and other types of media.

107.03 Public record policy.

107.02 Public records requested by mail.

CROSS REFERENCES

Personal Information Systems - see Ohio R.C. Ch. 1347

107.01 FEES FOR PHOTOCOPIES AND OTHER TYPES OF MEDIA.

(a) The City is hereby authorized to charge for photocopies and other types of media.

(b) The following fees and procedures for photocopies and other types of media are hereby established:

- (1) No charge for nineteen pages or less of photocopies.
- (2) For twenty or more photocopies - five cents (5¢) for each single sided copy and ten cents (10¢) for each double-sided copy for all the copies made.
- (3) For video or cassette tapes, the fee shall be the replacement cost for the tapes and/or the reproduction (copying) cost for the tapes. Reproduction costs may only be charged if a commercial or professional service is contracted to provide the copy. If the agency creates the copy, a reproduction fee may not be charged.
- (4) For any other type of media, the fee shall be the replacement or reproduction cost for that particular media.
(Ord. 98-2000. Passed 11-13-00.)

107.02 PUBLIC RECORDS REQUESTED BY MAIL.

The following procedure will be followed for public records requested through the mail:

- (a) Public record requests will be mailed at no charge for the first through nineteen copies.
- (b) Public record requests exceeding nineteen copies will require payment. A statement shall be completed and mailed with the copies.
- (c) Public record requests that exceed fifty pages will require prepayment. A prepayment request will be prepared and provided to the person(s) requesting the public records and, upon receipt of payment, the public records will be provided.

- (d) Postage and the cost of an adequate mailing envelope required to properly mail the requested records and/or other media types will be charged for all requests exceeding nineteen copies.
- (e) Person(s) who fail to pay for public records shall be classified as delinquent. Delinquent payment notices shall be mailed to all past due accounts and until payment is received, the City and/or department will not respond or process any further mailed-in requests for that person(s).
(Ord. 98-2000. Passed 11-13-00.)

107.03 PUBLIC RECORD POLICY.

(a) Mission Statement. The City believes openness and transparency leads to a better-informed citizenry, which leads to better government, and better public policy. Consistent with the premise that government-at all levels-exists first and foremost to serve the interests of the people, the City's mission and intent is to fully comply with and abide by both the spirit and the letter of Ohio's Public Records Act, R.C. 149.43 et seq., as may be amended from time to time.

(b) Defining Public Records.

- (1) All City records are public unless they are exempt from disclosure under federal or Ohio law. All public records shall be organized and maintained in such a way that they are available for inspection and copying.
- (2) A record is defined as a document, in any format, that is created, received, or comes under the City's jurisdiction, and which documents the City's organization, functions, policies, decisions, procedures, operations, or activities.
- (3) A "public record" is a "record" that is being kept by the City at the time a public records request is made, subject to applicable exemptions from disclosure under Ohio or federal law. All public records must be organized and maintained in such a way that they can be made available for inspection and copying.

(c) Response Timeframe. Public records are available for inspection during regular business hours, with the exception of published holidays. Public records shall be made available for inspection promptly. Copies of public records shall be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested; staffing levels; the proximity of the location where the records are stored; the necessity for any legal review and redaction of the records requested; and other facts and circumstances of the records requested.

(d) Responding to Requests.

- (1) No specific language is required to make a request for public records. The requester must at least, however, identify the records requested with sufficient clarity to allow the City to identify, retrieve, and review the records. If it is not clear what records are requested, the City shall contact the requester for clarification, and shall assist the requester in revising the request by informing the requester of the manner in which the office keeps its public records.

- (2) A records request need not be in writing, and the requester does not have to provide the requester's identity or the intended use of the requested public record. However, Ohio law permits the City to ask for a written request, the requester's identity, and/or the intended use of the information requested, but only (1) if a written request or disclosure of identity or intended use would benefit the requester by enhancing the City's ability to identify, locate, or deliver the public records that have been requested; and (2) after informing the requester that a written request is not required and that the requester may decline to reveal the requester's identity or intended use of the requested records.
 - (3) The City must examine each public record request under both state and federal law, which are subject to constitutional and statutory law amendments and enactments, and an evolving common law. Therefore, a City employee who receives a public record request must advise the Law Director and Administration office without delay. The Law Director shall assist the employee in evaluating and responding to the request. The Administration office shall transmit the City's response to the request and track it for compliance and efficiency by maintaining a log of each public records request together with a copy of the response, and shall be responsible to deliver the City's response to the requester.
 - (4) An electronic record is deemed to exist so long as a computer is already programmed to produce the record through simple sorting, filtering, or querying. And although the City is not obligated to create new records or perform new analysis of existing information to satisfy a public record request, it may accommodate a requester by generating new records when it is practical under the circumstances.
 - (5) In processing a request for inspection of a public record, a City employee must accompany the requester during the inspection to make certain original records are not removed, altered, or destroyed. A copy of the most recent edition of the Ohio Sunshine Laws manual is available via the Attorney General's internet website (www.ohioattorneygeneral.gov) for the purpose of keeping employees and the public educated as to the City's obligations under the Ohio Public Records Act, Open Meetings Act, records retention laws, and Personal Information Systems Act.
- (e) Electronic Records.
- (1) Records in the form of e-mail, text messaging, and instant messaging, including those sent and received via a hand-held communications device, are to be treated in the same fashion as records in other formats, such as paper or audiotape.
 - (2) Public record content transmitted to or from private accounts or personal devices is subject to disclosure. All employees or representatives of this office are required to retain their e-mail records and other electronic records in accordance with applicable records retention schedules.
- (f) Denial or Redaction of Records.
- (1) If a requester makes an ambiguous or overly broad request or has difficulty in making a request for public records, the request may be denied, but the City must provide the requester an opportunity to revise the request by informing the requester of the manner in which the City maintains and accesses records.

- (2) A denial of a public records request must include an explanation and the legal authority. If the initial request was made in writing, the explanation shall also be in writing. If portions of a requested record are public and portions are exempt, the exempt portions shall be redacted and the rest released. The City shall make the redaction plainly visible, and each redaction must be accompanied by a supporting explanation, including the legal authority.
- (3) Ohio's General Assembly has passed a number of laws that protect certain records by requiring or permitting a public office to withhold them from public release. If the City invokes one of these exceptions, it may only withhold a record or part of a record clearly covered by the exception, and it must tell the requester the legal authority it is relying on to withhold the record.

(g) Copying and Mailing Costs. Those seeking public records may be charged only the actual cost of making copies, not the labor cost. Currently, the established cost to reproduce records is as follows:

- (1) The cost for black and white photocopies is three cents (\$.03) per single-sided sheet; the cost for two-sided black and white photocopies is six cents (\$.06) per sheet.
- (2) The cost for color photocopies is 13 cents (\$.13) per single-sided sheet; the cost for two-sided color photocopies is 26 cents (\$.26) per sheet.
- (3) The cost for a black and white digital scan of a document is one cent (\$.01) per page. The cost for a color digital scan of a document is nine cents (\$.09) per page.
- (4) For discs, video, or cassette tapes, the fee shall be the replacement cost for the requested medium. Reproduction costs may only be charged if a commercial or professional service is contracted to provide the requested copies.
- (5) Persons requesting photographs pursuant to this policy shall be charged the actual cost incurred by the City for the reproduction of the photographs.
- (6) For any other type of media, the fee shall be the replacement or reproduction cost for that particular media.
- (7) The cost of copies shall be analyzed and updated from time-to-time as the cost of reproducing records changes.
- (8) Established costs and fees under this policy shall be clearly posted and visible to the public.

A requester may be required to pay in advance for the actual costs involved in providing the copy. A requester may choose whether to have the record duplicated upon paper, upon the same medium in which the public record is kept, or upon any other medium on which the City determines that the record can reasonably be duplicated as an integral part of the City's normal operations.

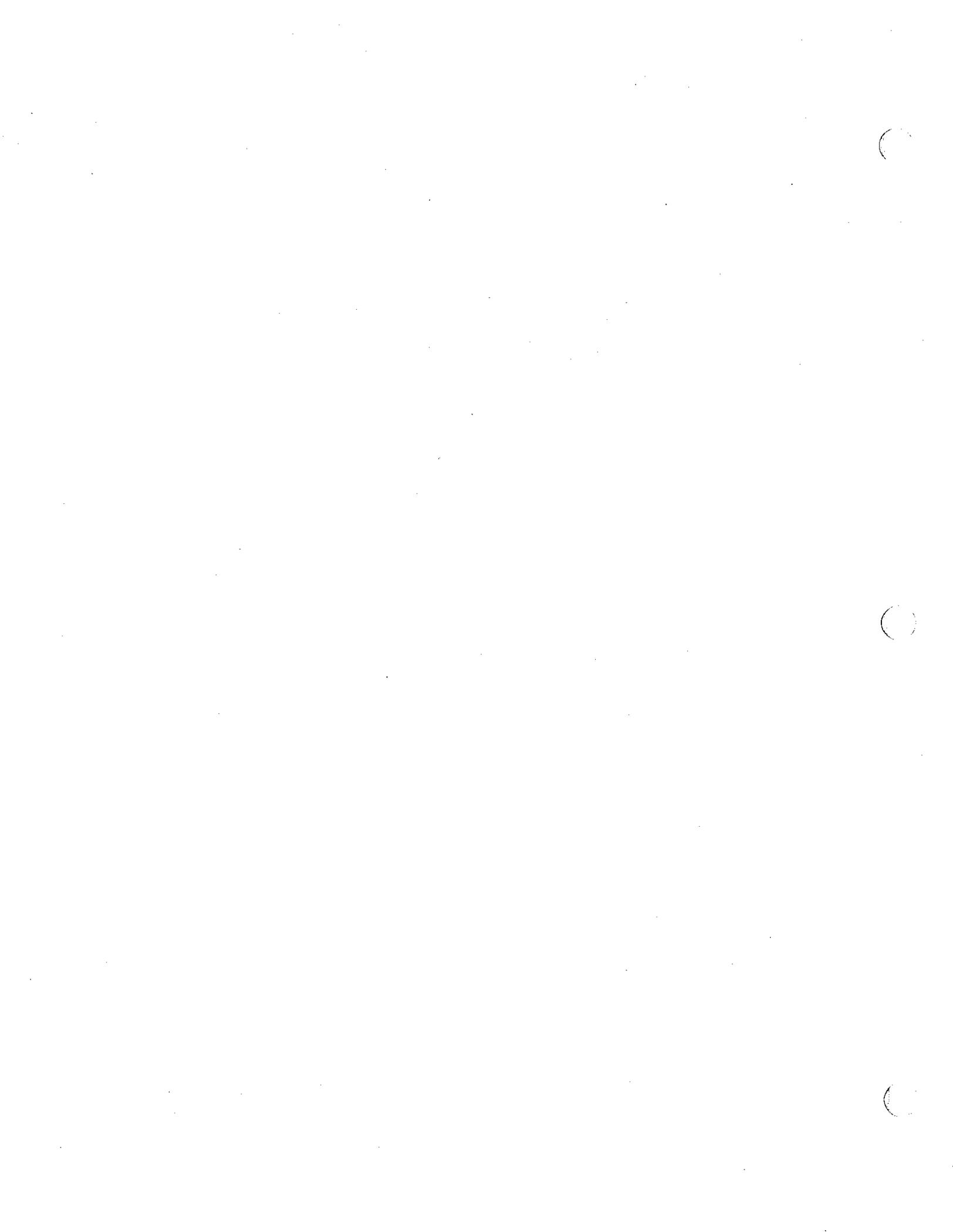
If a requester asks that documents be delivered, the requester may be charged the actual cost of the postage and mailing supplies, or other actual costs of delivery.

(h) Delivery Methods. A requester may personally pick up requested copies of public records, or may send a designee, after having providing the applicable record custodian notice of the designation. Based upon the requester's choice, the City's Administration office shall transmit copies of public records via the U.S. mail, or by any other reasonable means of delivery or transmission available to City. Copies of public records may be transmitted by e-mail if the City maintains the records electronically, or it determines that it reasonably can duplicate the requested records into electronic form as an integral part of its normal operation.

(i) Managing Records. City records are subject to records retention schedules. The City's current schedules are available at City Hall, a location readily available to the public as required by Ohio Revised Code 149.43(B)(2).

(j) Enforcement and Liabilities. There are several options available to a person who feels that a public office has failed to comply with an obligation of the Public Records Act. The requester may contact the City Law Director to raise an objection. The requester may engage in elective mediation offered by the Ohio Attorney General, if said mediation is available. The requester may file a mandamus lawsuit. In this type of lawsuit, the requester will have the burden of showing that the requester made a proper public records request, and the public office will have the burden of showing the court that it complied with the obligation(s) allegedly violated. If it cannot, the court will order the public office to provide an improperly withheld record, and the public office may be subject to a civil penalty and payment of attorney fees.

(k) Policy Posting and Distribution. The City's Administration office shall create a poster describing the above policy and post it in a conspicuous place in City Hall, Station 1 - Fire Division, Station 2 - EMS Division, the Service Center, the Water Treatment Plant, and the Civic Center. This policy shall be included in the employee handbook, and the record custodian for each City department that maintains public records shall acknowledge, in writing, receipt of this policy. (Ord. 25-2015. Passed 4-27-15.)



TITLE THREE - Legislative
 Chap. 111. Council.
 Chap. 113. Clerk of Council.

CHAPTER 111
Council

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| <p>111.01 Meetings; time, place and recording procedure.</p> <p>111.02 Council structure.</p> <p>111.03 Committees of Council.</p> <p>111.04 Legislative procedure.</p> <p>111.05 Committee of the Whole meeting agenda.</p> <p>111.06 Council meeting agenda.</p> | <p>111.07 Notice.</p> <p>111.08 Survey of constituents.</p> <p>111.09 Moral claims. (Repealed)</p> <p>111.10 Rules of decorum, courtesy and propriety.</p> <p>111.11 Recognition of visitors.</p> <p>111.12 Salaries and bonds.</p> |
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CROSS REFERENCES

Powers, membership and term - see CHTR. 2.01
 Officers - see CHTR. 2.03
 Meetings - see CHTR. 2.04
 Legislative procedure - see CHTR. 2.05
 Publication of ordinances - see CHTR. 2.05
 Vacancies - see CHTR. 5.05
 Relationship to administrative officers - see CHTR. 2.06
 Removal - see CHTR. 5.06
 Clerk of Council - see ADM. Ch. 125
 Contract interest - see GEN. OFF. 525.10
 Notice of meetings - see Ohio R.C. 121.22

111.01 MEETINGS; TIME, PLACE AND RECORDING PROCEDURE.

(a) Council of the City of North Canton, Ohio, ("Council") shall meet on the second and fourth Monday of each month at 7:00 p.m. in Council chambers, located in City Hall, 145 North Main Street, with the exception of the months of July and August when Council will meet on the second Monday in July and the fourth Monday in August.

(b) If a Council meeting date falls on a holiday recognized by the City, the meeting date shall be rescheduled or canceled.

(c) The starting time of a Council meeting or a public hearing may be set by motion of Council.

(d) Special Council meetings may be called as provided by the Charter of the Municipality of North Canton, Ohio ("Charter").

(e) Pursuant to the Charter, the Clerk of Council ("Clerk") shall keep a complete and accurate journal of all Council proceedings, which shall be authenticated by the Clerk's signature.

(f) Council shall meet as a Committee of the Whole on the first, third, and the fifth Monday, as applicable, of each month at 7:00 p.m. in Council chambers, located in City Hall, 145 North Main Street, with the exception of the months of July and August when the Committee of the Whole shall meet on the first Monday in July and the third Monday in August.

(g) The date and/or time of a Council or Committee of the Whole meeting may be changed or cancelled by a favorable vote of the majority of those members present at a prior Council or Committee of the Whole meeting, or upon the written request of four members of Council.

(h) All Council and Committee of the Whole meetings, with the exception of executive sessions, shall be recorded.

(i) All Council meetings that have been recorded shall be transcribed verbatim. Upon the committee chairperson's request and the President of Council's concurrence, a recorded Committee of the Whole meeting shall be transcribed verbatim.

(j) All transcribed meetings shall state those City officials in attendance and seated at the dais. (Ord. 45-2019. Passed 7-8-19.)

111.02 COUNCIL STRUCTURE.

(a) As provided in the Charter, Council is composed of four ward and three at-large Council members. The President of Council and Vice President of Council are elected from all Council members.

(b) The President of Council shall: preside over Council meetings and public hearings and therein preserve order and decorum; shall confine debate to the question under discussion; shall decide all points of order; and shall assign seats at the Council dais.

(c) Within the Charter's limits, the President of Council shall supervise the Director of Law, Director of Finance, and Clerk of Council.

- (d) As provided by the Charter, Council member vacancies shall be filled as follows:
- (1) A vacant at-large Council member position may be filled by a ward council member or any person who meets the qualifications set out in the Charter.
 - (2) A vacant ward council member position must be filled by person residing in that ward.
 - (3) Within the Charter's limits, the President of Council shall have the power to set the entire schedule for Council vacancy applications and voting.
 - (4) Nominations to fill a Council vacancy shall be made from the floor of Council.
 - (5) The Council vacancy shall be filled by the individual receiving a majority of roll call votes from Council members.
(Ord. 15-2015. Passed 4-13-15.)

111.03 COMMITTEES OF COUNCIL.

- (a) The standing committees of Council shall be:
- (1) Community and Economic Development;
 - (2) Finance and Property;
 - (3) Ordinance, Rules, and Claims;
 - (4) Park and Recreation;
 - (5) Personnel and Safety;
 - (6) Street and Alley; and
 - (7) Water, Sewer, and Rubbish.
- (b) The President of Council shall assign committee positions at the beginning of each year.
- (c) The President of Council may make special committees assignments thereafter as needed.
- (d) Council members shall present to the President of Council her or his preference of committee assignments, in writing, at the beginning of each year.
- (e) The President of Council shall make assignments at his or her own discretion, but shall take into consideration seniority, preference, special qualifications, experience, and the best interests of the City.
- (f) The President of Council shall designate one member each of each committee as the chairperson and one member as the committee vice chairperson.
- (g) Committees of Council shall meet upon call by its members and as provided by the Charter.
- (h) No Committee of Council shall meet without the Clerk having first provided the committee's members with twenty-four hours advance notice of the meeting's date and time. Provided all committee members agree, the twenty-four hour notice requirement may be waived for a particular meeting.

(i) Under exigent circumstances, and if a quorum is present, a Committee of Council meeting may be held even though all members did not receive advance notice. A quorum shall be a majority of all members assigned to a committee. The President of Council shall enter into the record the exigent circumstances and the Clerk the reason a committee member was not notified in advance of a meeting. (Ord. 33-13. Passed 5-28-13.)

111.04 LEGISLATIVE PROCEDURE.

- (a) The Charter's provisions govern Council's legislative process.
- (b) The President of Council shall refer those matters that require pre-Council consideration to commissions and boards.
- (c) Upon a matter's introduction to Council, or upon referral back to Council, the President of Council, in the President's complete discretion, shall refer the matter to the proper Council committee for consideration. (Ord. 33-13. Passed 5-28-13.)

111.05 COMMITTEE OF THE WHOLE MEETING AGENDA.

- (a) All matters to be placed on the Committee of the Whole's meeting agenda shall be reported to the Clerk by 4:00 p.m. on Tuesday before the meeting. The President of Council may make exceptions to this rule, provided that sufficient time is available to comply with the request.
- (b) The Committee of the Whole's meeting agenda and supporting paperwork such as ordinances, resolutions, committee reports, etc., shall be available to Council, Mayor, Directors of Administration, Law, and Finance by 12:00 noon on the Thursday before the Committee of the Whole's meeting, or as soon thereafter as possible. (Ord. 33-13. Passed 5-28-13.)

111.06 COUNCIL MEETING AGENDA.

- (a) Legislation may be placed on the Council agenda only upon:
- (1) The Clerk's receipt of the applicable committee's favorable, written report; or
 - (2) Notice that the applicable committee meeting shall be transcribed.
- (b) In addition, legislation may be placed on the Council agenda only upon Council president, or designee, publicly polling Council, and a majority of members recommending the legislation be placed on the Council agenda.
- (c) By a majority vote of members, however, Council may suspend the rule requiring a committee's favorable, written report, and place legislation on the Council agenda.
- (d) The Council meeting agenda shall be in substantially the following form:
- (1) Call to order;
 - (2) Opening prayer;
 - (3) Pledge of Allegiance;
 - (4) Roll call;
 - (5) Consideration of minutes of regular meetings, special meetings, and public hearings held in the period between two regular meetings;
 - (6) Consideration of the financial statement for the previous month (Placed on the agenda once a month);
 - (7) Recognition of visitors;
 - (8) Committee reports;

- (9) Old business;
- (10) New business;
- (11) Reports of Directors of Law, Finance, and Administration, Clerk, and Mayor.
- (12) Reports of Council members;
- (13) Final call for new business;
- (14) Adjourn.

(e) All matters to be placed on the Council meeting's agenda items shall be reported to the Clerk by 4:00 p.m., on the Tuesday prior to the Council meeting. The President of Council may make exceptions to this rule, provided that sufficient time is available to comply with the request.

(f) The agenda, and copies of all applicable ordinances, resolutions, committee reports, etc., shall be made available to each Council member, Mayor, Directors of Administration, Law, and Finance on the Thursday prior to the regular Council meeting, or as soon thereafter as possible.

(g) The Clerk of Council shall present legislation to the Mayor, or designee, on the same day Council has passed the legislation. (Ord. 46-2019. Passed 7-8-19.)

111.07 NOTICE.

(Pursuant to Ohio Revised Code Section 121.22.)

(a) The Clerk shall post at a prominent place in the North Canton City Hall, the time, date, and place of all regularly scheduled meetings of Council and the Council meeting as a Committee of the Whole.

(b) Given the circumstances, within a reasonable period prior to the meeting, the Clerk shall post in a prominent place, at the North Canton City Hall, notice of all special meetings of any Council committee meeting as a public body, as defined by the Ohio Revised Code, which notice shall include the time, place, and purpose of such meeting.

(c) The prominent place described above shall be designated by Council motion from time to time.

(d) News media requesting twenty-four hours' notice of special meetings shall provide the Clerk with a facsimile telephone number or an e-mail address at which that media may be notified. The Clerk shall make a reasonable effort to notify the media at the provided address and facsimile telephone number.

(e) Upon request, any person may obtain reasonable advance notice by e-mail or facsimile of all meetings of Council, Council meeting as a Committee of the Whole, and special meetings at which specific public business is to be discussed. The Clerk may use the meeting agenda as notification. (Ord. 33-13. Passed 5-28-13.)

111.08 SURVEY OF CONSTITUENTS.

Any Council member that wishes to survey his or her constituents must meet the following conditions:

- (a) The survey/letter may address only a single issue;
- (b) The survey/letter may be sent only to residents directly affected by the issue addressed in the survey/letter;
- (c) The content of the survey/letter must receive consent of the majority of Council.

- (d) A Council member may not send out a survey/letter to constituents within 90 days of an election of North Canton City Council members unless all of the following the restrictions have been met:
- (1) A majority of Council must agree that conditions (a), (b), and (c) above have been met; and
 - (2) The survey/letter does not contain the name of the sending Council member, but rather is signed, "North Canton City Council."
- (e) The above restrictions shall not control correspondence between a Council member and the member's constituents if City resources are not utilized; however, no City letterhead, envelopes (or likeness thereof) shall be used.
(Ord. 33-13. Passed 5-28-13.)

111.09 MORAL CLAIMS. (REPEALED)

EDITOR'S NOTE: Former Moral Claims Section was repealed by Ordinance 22-12.

111.10 RULES OF DECORUM, COURTESY, AND PROPRIETY.

(a) Council has a significant governmental interest to ensure order during its meetings and expects and requires that its guests be respectful and courteous to other guests, City employees, and Council members. Guests also deserve and should expect a courteous, respectful hearing of their comments and concerns regarding matters under Council's jurisdiction. For those reasons, and so that the City's business may be effectively accomplished without disruption, meetings shall be conducted in an orderly, efficient, and dignified manner. Council must therefore insist that all in attendance not disrupt Council, committee, or special meetings by physical actions, excessive noise, or other disruptive or distracting behaviors, as those actions delay-and in some circumstances-cause the legislative process.

(b) Council shall designate a portion of its meeting, Recognition of Visitors, to provide its guests with a venue in which they may be heard in a fair, impartial, and respectful manner, which is open and welcoming to diverse viewpoints, and yet free from disruptions, and impertinent behavior. Therefore, with the exception of the amount of time permitted to speak, and the rule that Recognition of Visitor's is the only portion of Council meetings that a guest may speak, Council shall not limit a guest's message that appears free of impertinence, slander, profanity, obscenity, intimidation, threats of violence, or those spoken words or actions likely to invite a breach of the peace.

(c) In the interest of its guests, City employees, and Council Members, and to help prevent the disruption of its meetings that delay or cease the legislative process, Council rules shall be strictly and equally enforced. The President of Council shall promptly issue a warning to those that violate the Rules of Decorum, Courtesy, and Propriety to cease the disruptive behavior. Because a disruptive individual waives his or her right to remain at a meeting, and to prevent the further delay or cessation of the legislative process, the President of Council shall expel from the meeting those individuals that persist despite the President's warning to cease the disruptive behavior. If the disruptive individual fails to immediately leave the meeting upon the President of Council's demand, the President shall have the individual removed from the Council, Committee of the Whole, or special meeting by a law enforcement officer in the course of enforcing the laws of the State of Ohio. A person who disrupts a Council, Committee of the Whole, or special meeting may be prosecuted for disturbing a lawful meeting, a fourth degree misdemeanor, and obstructing official business, a second degree misdemeanor. (Ord. 33-13. Passed 5-28-13.)

111.11 RECOGNITION OF VISITORS.

(a) Guests of Council meetings are permitted to speak only during the Recognition of Visitors portion of the Council meeting. Guests shall observe the Rules of Decorum, Courtesy, and Propriety described above. See 111.10. There shall be no shouting or other types of disruptive behavior during a Council, Committee of the Whole, or special meeting.

CHAPTER 139
Department of Engineering

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| <p>139.01 Department of Engineering established.</p> <p>139.02 Division of Engineering Services.</p> <p>139.03 Division of Permits and Inspection.</p> | <p>139.04 Licenses and permits issued.</p> <p>139.05 Superintendent of Permits and Inspection; duties, reports.</p> |
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CROSS REFERENCES

- Authority to establish - see CHTR. 3.03
 Civil engineer - see Ohio R.C. 733.80
 General duties - see Ohio R.C. 735.32
 Assistants - see Ohio R.C. 735.33
 Registration as a professional engineer - see Ohio R.C. Ch. 4733

139.01 DEPARTMENT OF ENGINEERING ESTABLISHED.

That there is hereby established the Department of Engineering under the direction of the City Engineer who shall have supervision and control of the Department subject to the direction of the Director of Administration.

The Department of Engineering shall be composed of the following divisions which shall have the functions hereinafter set forth and such other matters as may be delegated to it by the Director of Administration.

- (a) Engineering Services Division.
- (b) Permits and Inspection Division.

The City Engineer shall perform such other duties not incompatible with the nature of his Office or in conflict with the City Charter or any other function as authorized by ordinance or resolution of Council.

(1986 Code 139.01)

139.02 DIVISION OF ENGINEERING SERVICES.

The Division of Engineering Services shall be under the supervision of the Assistant Engineer who shall be accountable to the City Engineer. He shall perform such duties as may be required by the City Engineer, or as may be required or prescribed by resolution or ordinance of Council.

(1986 Code 139.02)

139.03 DIVISION OF PERMITS AND INSPECTION.

The Division of Permits and Inspection shall be under the Superintendent of Permits and Inspection who shall be accountable to the Director of Administration. The Superintendent of Permits and Inspection shall perform such duties as may be required by the Director of Administration, or as may be required or prescribed by resolution or ordinance of Council.
(Ord. 2-2019. Passed 3-5-19.)

139.04 LICENSES AND PERMITS ISSUED.

The Division of Permits and Inspection shall issue all City licenses and permits except as otherwise specifically provided.

139.05 SUPERINTENDENT OF PERMITS AND INSPECTION; DUTIES; REPORTS.

(a) The Superintendent of Permits and Inspection may also hold any of the inspector's positions within the Division at the discretion of the Mayor and/or City Administrator.

(b) The Superintendent shall be in charge of and issue all permits and licenses which are issued by the Division and shall be in charge of all inspectors who are necessary under any permit or license.

(c) The signature of the Superintendent shall be the only one necessary on any permit or license issued by the City, except bicycle licenses.

(d) A report of the permits and licenses issued and fees collected shall be turned over to the Director of Finance daily.
(Ord. 2600. Passed 11-27-67.)

- (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 situated to a municipal corporation as follows:
- (a) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation only if, regardless of where title passes, the property meets any either of the following criteria:
 - (i) The property is shipped to or delivered within North Canton from a stock of goods located within North Canton.
 - (ii) The property is delivered within North Canton from a location outside North Canton, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within North Canton and the sales result from such solicitation or promotion.
 - (b) Gross receipts from the sale of services shall be situated to North Canton to the extent that such services are performed in North Canton.
 - (c) To the extent included in income, gross receipts from the sale of real property located in North Canton shall be situated to North Canton.
 - (d) To the extent included in income, gross receipts from rents and royalties from real property located in North Canton shall be situated to North Canton.

- (e) Gross receipts from rents and royalties from tangible personal property shall be situated to North Canton based upon the extent to which the tangible personal property is used in North Canton.
 - (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 North Canton's tax only if the property generating the net profit is located in North Canton or if the individual taxpayer that receives the net profit is a resident of North Canton. North Canton shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.
 - (6)
 - (a) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to North Canton, 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 North Canton 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 North Canton shall report the individual's net profit from all real estate activity on the individual's annual tax return for North Canton. 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 North Canton'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) Left intentionally blank.
 - (9) Intentionally left blank.
- (Ord. 31-2018. Passed 5-14-18.)

192.04 COLLECTION AT SOURCE.

Withholding provisions.

(A) Each employer, agent of an employer, or other payer located or doing business in North Canton shall withhold an income tax from the qualifying wages earned and/or received by each employee in North Canton. Except for qualifying wages for which withholding is not required under Section 192.03 or division (B)(4) or (6) of this section, the tax shall be withheld at the rate, specified in Section 192.01 (B)(1) of this ordinance, of 1.5%. 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.

- (d) For an individual, on or before the fifteenth (15th) day of the first month of the following taxable year, ninety percent (90%) of the tax liability for the taxable year. For a person other than an individual, on or before the fifteenth (15th) day of the twelfth month of the taxable year, ninety percent (90%) of the tax liability for the taxable year.
- (2) When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates.
- (3) On or before the fifteenth (15th) day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with Section 192.05.
- (D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 192.18 upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:
- (a) For the first payment of estimated taxes each year, twenty-two and one-half percent (22.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
- (b) For the second payment of estimated taxes each year, forty-five percent (45%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
- (c) For the third payment of estimated taxes each year, sixty-seven and one-half percent (67.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
- (d) For the fourth payment of estimated taxes each year, ninety percent (90%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
- (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.
- (E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:
- (1) The amount of estimated taxes that were paid equals at least ninety percent (90%) of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
- (2) The amount of estimated taxes that were paid equals at least one hundred percent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with North Canton under Section 192.05 for that year.
- (3) The taxpayer is an individual who resides in North Canton 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. 101-2017. Passed 12-4-17.)

192.08 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 ordinance. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document. (Ord. 62-2015. Passed 11-9-15.)

192.09 REQUESTS FOR REFUNDS.

(A) As used in this section, "withholding tax" has the same meaning as in Section 192.18.

(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 North Canton:

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

- (C)
- (1) Except as otherwise provided in this ordinance, requests for refund shall be filed with the Tax Administrator, on the form prescribed by the Tax Administrator within three 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 for payment. Except as provided in division (C)(3) of this section, the Tax 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 192.21.

(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 days of such last day.
- (3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

CODIFIED ORDINANCES OF NORTH CANTON

PART THREE - TRAFFIC CODE

TITLE ONE - Administration

Chap. 301. Definitions.

Chap. 303. Enforcement, Impounding and Penalty.

Chap. 305. Traffic Control.

CHAPTER 301
Definitions

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| 301.21 | Park or parking. | 301.50 | Urban district. |
| 301.22 | Pedestrian. | 301.51 | Vehicle. |
| 301.23 | Person. | 301.52 | Wheelchair, motorized. |
| 301.24 | Pole trailer. | 301.53 | Waste collection vehicle. |
| 301.25 | Police officer. | | |
| 301.251 | Predicate motor vehicle or traffic offense. | | |
| 301.26 | Private road or driveway. | | |

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(LL))

301.04 BICYCLE; MOTORIZED BICYCLE; MOPED; ELECTRIC BICYCLE.

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

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

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

(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))

301.181 MEDIAN.

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

301.19 MOTORCYCLE.

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

301.20 MOTOR VEHICLE.

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

301.201 OPERATE.

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

301.21 PARK OR PARKING.

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

301.22 PEDESTRIAN.

"Pedestrian" means any natural person afoot. (ORC 4511.01(X))

301.23 PERSON.

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

301.24 POLE TRAILER.

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

301.25 POLICE OFFICER.

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

301.251 PREDICATE MOTOR VEHICLE OR TRAFFIC OFFENSE.

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

- (a) A violation of Ohio R.C. 4511.03, 4511.051, 4511.12, 4511.132, 4511.16, 4511.20, 4511.201, 4511.21, 4511.211, 4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.451, 4511.452, 4511.46, 4511.47, 4511.48, 4511.481, 4511.49, 4511.50, 4511.511, 4511.522, 4511.53, 4511.54, 4511.55, 4511.56, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.66, 4511.661, 4511.68, 4511.70, 4511.701, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, 4511.73, 4511.763, 4511.771, 4511.78 or 4511.84;
- (b) A violation of division (A)(2) of Ohio R.C. 4511.17, divisions (A) to (D) of Ohio R.C. 4511.51, or division (A) of Ohio R.C. 4511.74;

- (c) A violation of any provision of Ohio R.C. 4511.01 to 4511.76 for which no penalty otherwise is provided in the section that contains the provision violated;
- (d) A violation of Ohio R.C. 4511.214.
- (e) A violation of a municipal ordinance that is substantially similar to any section or provision set forth or described in subsection (a) to (d) of this section.
(ORC 4511.01(III))

301.26 PRIVATE ROAD OR DRIVEWAY.

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

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

301.27 PUBLIC SAFETY VEHICLE.

"Public safety vehicle" means any of the following:

- (a) Ambulances, including private ambulance companies under contract to a municipal corporation, township or county and private ambulances and transport vehicles bearing license plates issued under Ohio R.C. 4503.49;
- (b) Motor vehicles used by public law enforcement officers or other persons sworn to enforce the criminal and traffic laws of the State or the Municipality;
- (c) Any motor vehicle when properly identified as required by the Ohio Director of Public Safety, when used in response to fire emergency calls or to provide emergency medical service to ill or injured persons, and when operated by a duly qualified person who is a member of a volunteer rescue service or a volunteer fire department, and who is on duty pursuant to the rules or directives of that service. The Ohio Fire Marshal shall be designated by the Ohio Director of Public Safety as the certifying agency for all public safety vehicles described in this subsection (c);
- (d) Vehicles used by fire departments, including motor vehicles when used by volunteer fire fighters responding to emergency calls in the fire department service when identified as required by the Ohio Director of Public Safety. Any vehicle used to transport or provide emergency medical service to an ill or injured person, when certified as a public safety vehicle, shall be considered a public safety vehicle when transporting an ill or injured person to a hospital regardless of whether such vehicle has already passed a hospital.
(ORC 4511.01(E))
- (e) Vehicles used by the Commercial Motor Vehicle Safety Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission as specified in Ohio R.C. 5503.34.

301.28 RAILROAD.

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

301.29 RAILROAD SIGN OR SIGNAL.

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

301.30 RAILROAD TRAIN.

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

301.31 RESIDENCE DISTRICT.

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

301.32 RIGHT OF WAY.

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

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

301.321 ROAD SERVICE VEHICLE.

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

301.33 ROADWAY.

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

301.34 SAFETY ZONE.

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

301.35 SCHOOL BUS.

"School bus" means every bus designed for carrying more than nine passengers that is owned by a public, private or governmental agency or institution of learning and operated for the transportation of children to or from a school session or a school function, or owned by a private person and operated for compensation for the transportation of children to or from a school session or a school function; provided "school bus" does not include a bus operated by a municipally

owned transportation system, a mass transit company operating exclusively within the territorial limits of the Municipality, or within such limits and the territorial limits of municipal corporations immediately contiguous to the Municipality, nor a common passenger carrier certified by the Public Utilities Commission unless such bus is devoted exclusively to the transportation of children to and from a school session or a school function, and "school bus" does not include a van or bus used by a licensed child day-care center or type A family day-care home to transport children from the child day-care center or type A family day-care home to a school if the van or bus does not have more than fifteen children in the van or bus at any time. "Child day-care center" and "type A family day-care home" have the same meanings as in Ohio R.C. 5104.01. (ORC 4511.01(F), (FFF))

301.36 SEMITRAILER.

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

301.361 SHARED-USE PATH.

"Shared-use path" means a bikeway outside the traveled way and physically separate from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent alignment. A shared-use path also may be used by pedestrians, including skaters, joggers, users of manual and motorized wheelchairs, and other authorized motorized and non-motorized users. (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 than 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, or any device, other than a bicycle, that is moved by human power.

(ORC 4511.01(A))

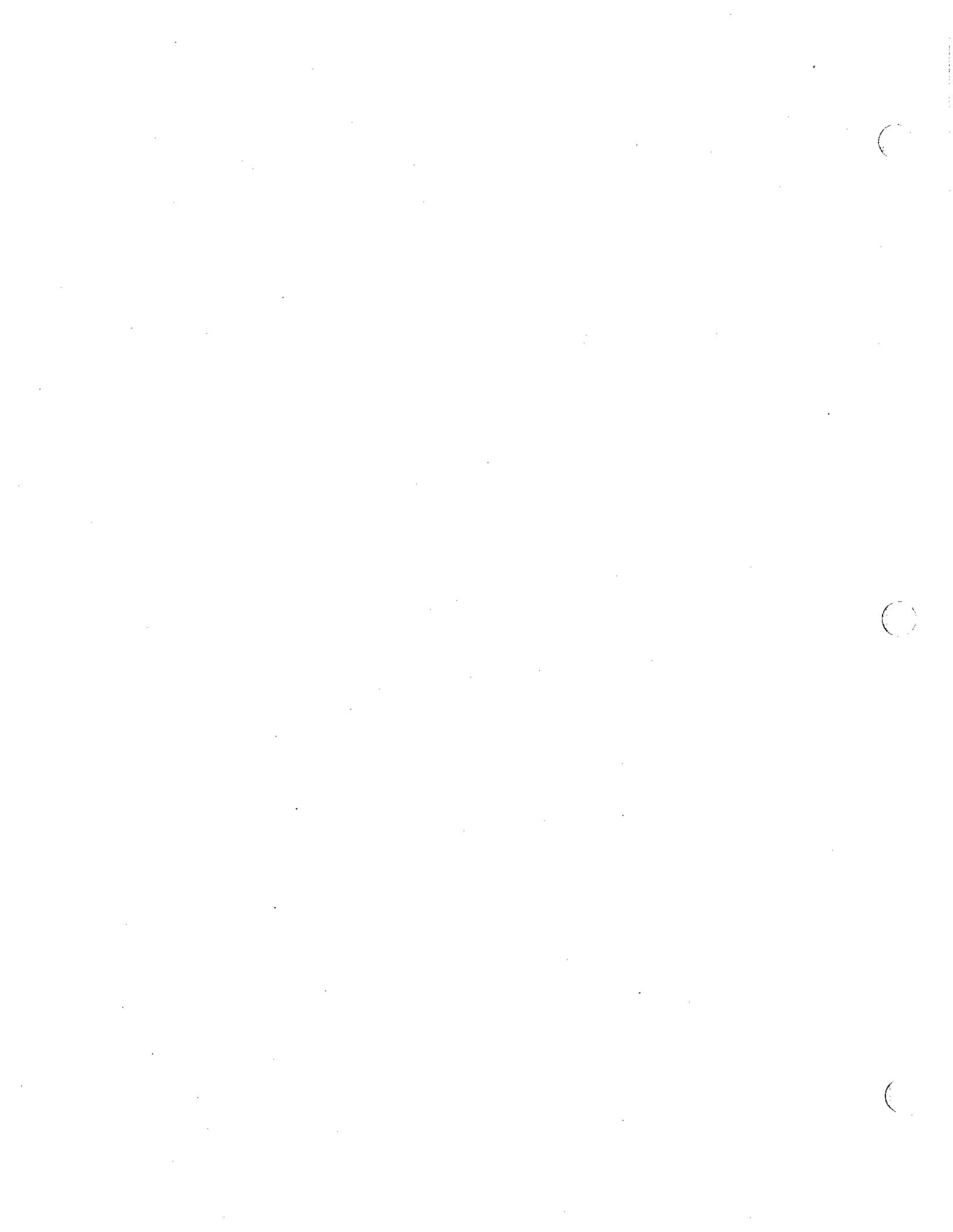
301.52 WHEELCHAIR, MOTORIZED.

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

(ORC 4511.01(EEE))

301.53 WASTE COLLECTION VEHICLE.

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



CHAPTER 303
Enforcement, Impounding and Penalty

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| 303.01 Compliance with lawful order of police officer; fleeing. | 303.081 Impounding vehicles on private residential or agricultural property. |
| 303.02 Traffic direction in emergencies; obedience to school guard. | 303.082 Private tow-away zones. |
| 303.03 Officer may remove ignition key. | 303.083 Release of vehicle; records; charges. |
| 303.04 Road workers, motor vehicles and equipment excepted. | 303.09 Leaving junk and other vehicles on private or public property without permission or notification. |
| 303.041 Emergency, public safety and coroner's vehicles exempt. | 303.10 Leaving junk vehicles on private property with permission of owner. |
| 303.05 Application to persons riding, driving animals upon roadway. | 303.11 Providing false information to police officer. |
| 303.06 Freeway use prohibited by pedestrians, bicycles and animals. | 303.12 Mayor and/or City Administrator to authorize parking tickets. |
| 303.07 Application to drivers of government vehicles. | 303.99 General Traffic Code penalties. |
| 303.08 Impounding of vehicles; redemption. | 303.991 Committing an offense while distracted penalty. |

CROSS REFERENCES

See sectional histories for similar State law
Disposition of unclaimed vehicles - see Ohio R.C. 737.32, 4513.62 et seq.
Citations for minor misdemeanors - see Ohio R.C. 2935.26 et seq.
Power of trial court of record to suspend or revoke license for certain violations - see Ohio R.C. 4507.16, 4507.34
State point system suspension - see Ohio R.C. 4507.40
Uniform application of Ohio Traffic Law - see Ohio R.C. 4511.06
Marking motor vehicles used by traffic officers - see Ohio R.C. 4549.13
Distinctive uniform required for traffic officers - see Ohio R.C. 4549.15
Exceptions for emergency or public safety vehicles - see TRAF. 331.20, 333.06

303.01 COMPLIANCE WITH LAWFUL ORDER OF POLICE OFFICER; FLEEING.

(a) No person shall fail to comply with any lawful order or direction of any police officer invested with authority to direct, control or regulate traffic.

(b) No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop.

(c) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer. A violation of subsection (a) is a misdemeanor of the first degree. A violation of subsection (b) is a misdemeanor of the first degree, unless the jury or judge as trier of fact finds any one of the following by proof beyond a reasonable doubt:

- (1) In committing the offense, the offender was fleeing immediately after the commission of a felony;
- (2) The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property;
- (3) The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

(d) In addition to any other sanction imposed for a violation of subsection (a) of this section or a misdemeanor violation of subsection (b) of this section, the court shall impose a class five suspension from the range specified in Ohio R.C. 4510.02(A)(5). If the offender previously has been found guilty of an offense under this section, in addition to any other sanction imposed for the offense, the court shall impose a class one suspension as described in division (A)(1) of that section. The court may grant limited driving privileges to the offender on a suspension imposed for a misdemeanor violation of this section as set forth in Ohio R.C. 4510.021. No judge shall suspend the first three years of suspension under a class two suspension of an offender's license, permit or privilege required by this division on any portion of the suspension under a class one suspension of an offender's license, permit, or privilege required by this subsection.
(ORC 2921.331)

303.02 TRAFFIC DIRECTION IN EMERGENCIES; OBEDIENCE TO SCHOOL GUARD.

(a) Police officers shall direct or regulate traffic in accordance with the provisions of this Traffic Code, provided that, in the event of fire or other emergency or to expedite traffic or safeguard pedestrians, they are authorized to direct traffic as conditions may require notwithstanding the provisions of this Traffic Code. Firemen, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity. The direction of traffic may be by word or audible signal, by gesture or visible signal or by any combination thereof. No person shall fail to comply with any lawful order or direction of any police officer or fireman issued pursuant to this section.

(b) No person shall fail to comply with any lawful order or direction of any school crossing guard invested with authority to direct, control or regulate traffic in the vicinity of the school to which such guard may be assigned.

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

303.03 OFFICER MAY REMOVE IGNITION KEY.

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

303.04 ROAD WORKERS, MOTOR VEHICLES AND EQUIPMENT EXCEPTED.

(a) The provisions of this Traffic Code do not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway within an area designated by traffic control devices, but apply to such persons and vehicles when traveling to or from such work.

(b) The driver of a highway maintenance vehicle owned by this state or any political subdivision of this state, while the driver is engaged in the performance of official duties upon a street or highway, provided the highway maintenance vehicle is equipped with flashing lights and such other markings as are required by law, and such lights are in operation when the driver and vehicle are so engaged, shall be exempt from criminal prosecution for violations of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 and Ohio R.C. 4511.66 and 5577.01 to 5577.09.

- (c) (1) This section does not exempt a driver of a highway maintenance vehicle from civil liability arising from a violation of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 or Ohio R.C. 4511.66 or 5577.01 to 5577.09.
- (2) This section does not exempt a driver of a vehicle who is not a state employee and who is engaged in the transport of highway maintenance equipment from criminal liability for a violation of Ohio R.C. 5577.01 to 5577.09.

(d) As used in this section, "engaged in the performance of official duties" includes driving a highway maintenance vehicle to and from the manufacturer or vehicle maintenance provider and transporting a highway maintenance vehicle, equipment, or materials to and from a work location. (ORC 4511.04)

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

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

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

303.05 APPLICATION TO PERSONS RIDING, DRIVING ANIMALS UPON ROADWAY.

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

303.06 FREEWAY USE PROHIBITED BY PEDESTRIANS, BICYCLES AND ANIMALS.

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

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

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

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

303.07 APPLICATION TO DRIVERS OF GOVERNMENT VEHICLES.

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

303.08 IMPOUNDING OF VEHICLES; REDEMPTION.

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

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

(2) Apparently inoperable.

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. (Ord. 21-84. Passed 4-23-84.)

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

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

(a) For the purposes of this section, "junk motor vehicle" means any motor vehicle which is:

- (1) Extensively damaged, such damage including but not limited to any of the following: missing wheels, tires, motor or transmission; or
- (2) Apparently inoperable,

and 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 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.

Council, the Chief of Police or the Municipal Zoning Authority, may send notice by certified mail with return receipt requested, 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 covered by being housed in a garage or other suitable structure or shall be removed from the property.

No person shall willfully leave a junk motor vehicle uncovered 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 thirty days that a junk motor vehicle continues to be so left constitutes a separate offense. (Ord. 21-84. Passed 4-23-84.)

(b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.65)

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. (ORC 4513.361)

(b) No person, charged with violating any provision of this Traffic Code, shall present a citation notice or file a written plea of guilty with the Clerk of Court under a name other than his correct and true name. (Ord. 2755. Passed 8-11-69.)

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

303.12 MAYOR AND/OR CITY ADMINISTRATOR TO AUTHORIZE PARKING TICKETS.

The Mayor and/or City Administrator is authorized and directed to supply police officers with parking tickets, for the purpose of giving notice to persons violating any parking provisions of this Traffic Code or of other laws or ordinances affecting the use of highways. The notice may be given by delivering the ticket to the violator or by affixing the ticket to the vehicle on the windshield, or some other place where it can be easily seen by the owner. The ticket shall direct the violator to appear and to present such ticket at a designated office of the City at or before a date and hour specified thereon.

Nothing in this section shall be construed to abridge the power of a police officer to arrest any violator and take him into custody. (Ord. 2755. Passed 8-11-69.)

303.99 GENERAL TRAFFIC CODE PENALTIES.

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

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

| <u>Classification of Misdemeanor</u> | <u>Maximum Term of Imprisonment</u> | <u>Maximum Fine</u> |
|--------------------------------------|-------------------------------------|---------------------|
| First degree | 180 days | \$1,000.00 |
| Second degree | 90 days | 750.00 |
| Third degree | 60 days | 500.00 |
| Fourth degree | 30 days | 250.00 |
| Minor | No imprisonment | 150.00 |

(ORC 2929.24; 2929.28)

303.991 COMMITTING AN OFFENSE WHILE DISTRACTED PENALTY.

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

- (1) "Distracted" means doing either of the following while operating a vehicle:
 - A. Using a handheld electronic wireless communications device, as defined in Ohio R.C. 4511.204 except when utilizing any of the following:
 - 1. The device's speakerphone function;
 - 2. A wireless technology standard for exchanging data over short distances;
 - 3. A "voice-operated or hands-free" device that allows the person to use the electronic wireless communications device without the use of either hand except to activate, deactivate, or initiate a feature or function;
 - 4. Any device that is physically or electronically integrated into the motor vehicle.
 - B. Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.

- (2) "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of Section 331.43.
- (3) "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage or a circumstance affecting the health or safety of individuals.
As used in subsection (a)(3) of this section:
 - A. "Utility" means an entity specified in division (A), (C), (D), (E) or (G) of Ohio R.C. 4905.03.
 - B. "Utility service vehicle" means a vehicle owned or operated by a utility.

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

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

If the court imposes upon the offender the applicable penalty for the violation and an additional fine of not more than one hundred dollars (\$100.00), the court shall inform the offender that, in lieu of payment of the additional fine of not more than one hundred dollars (\$100.00), the offender instead may elect to attend the distracted driving safety course described in subsection (b)(1) of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than one hundred dollars (\$100.00), so long as the offender submits to the court the offender's payment and such written evidence.
(ORC 4511.991)

CHAPTER 313
Traffic Control Devices

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

See sectional histories for similar State law

Designation of through streets or stop intersections - see Ohio R.C. 4511.07(F), 4511.65

Uniform system of traffic control devices - see Ohio R.C. 4511.09, 4511.11(D)

Placing and maintaining local traffic control devices - see Ohio R.C. 4511.10, 4511.11

Traffic control devices defined - TRAF. 301.46

313.01 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

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

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

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

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

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

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

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

(b) Other streets or highways or portions thereof, are hereby designated through streets or highways, if they are within the Municipality, if they have a continuous length of more than one mile between the limits of such street or highway or portion thereof, and if they have "stop" or "yield" signs or traffic control signals at the entrances of the majority of intersecting streets or highways. For purposes of this section, the limits of such street or highway or portion thereof, shall be a municipal corporation line, the physical terminus of the street or highway or any point on such street or highway at which vehicular traffic thereon is required by regulatory signs to stop or yield to traffic on the intersecting street, provided that in residence districts the Municipality may by ordinance designate such street or highway, or portion thereof, not to be a through highway and thereafter the affected residence district shall be indicated by official traffic control devices. Where two or more streets or highways designated under this subsection (b) intersect and no traffic control signal is in operation, stop signs or yield signs shall be erected at one or more entrances thereto by the Ohio Department of Transportation or by Council or the authorized local authority, except as otherwise provided in this section.

(c) Stop signs need not be erected at intersections so constructed as to permit traffic to safely enter a through street or highway without coming to a stop. Signs shall be erected at such intersections indicating that the operator of a vehicle shall yield the right of way to or merge with all traffic proceeding on the through street or highway.

(d) Council or the authorized local authority may designate additional through streets or highways and shall erect stop signs, yield signs or traffic control signals at all streets and highways intersecting such through streets or highways, or may designate any intersection as a stop or yield intersection and shall erect like signs at one or more entrances to such intersection.
(ORC 4511.65)

313.03 TRAFFIC SIGNAL INDICATIONS.

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

(a) Steady Green Signal Indication:

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

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

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

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

- (1) Stop at a clearly marked stop line, but if none, stop before entering the crosswalk on the near side of the intersection, or, if none, stop before entering the intersection;
- (2) Yield the right of way to all vehicles in the intersection or approaching on an intersecting road, if the vehicles will constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.
- (3) Exercise ordinary care while proceeding through the intersection.

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

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

(ORC 4511.132)

313.10 UNLAWFUL PURCHASE, POSSESSION OR SALE.

(a) As used in this section, "traffic control device" means any sign, traffic control signal or other device conforming to and placed or erected in accordance with the manual adopted under Ohio R.C. 4511.09 by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic, including signs denoting the names of streets and highways, but does not mean any pavement marking.

(b) No individual shall buy or otherwise possess or sell, a traffic control device, except when one of the following applies:

- (1) In the course of the individual's employment by the State or a local authority for the express or implied purpose of manufacturing, providing, erecting, moving or removing such a traffic control device;
- (2) In the course of the individual's employment by any manufacturer of traffic control devices other than a State or local authority;

- (3) For the purpose of demonstrating the design and function of a traffic control device to State or local officials;
- (4) When the traffic control device has been purchased from the State or a local authority at a sale of property that is no longer needed or is unfit for use;
- (5) The traffic control device has been properly purchased from a manufacturer for use on private property and the person possessing the device has a sales receipt for the device or other acknowledgment of sale issued by the manufacturer.

(c) This section does not preclude, and shall not be construed as precluding, prosecution for theft in violation of Ohio R.C. 2913.02 or a municipal ordinance relating to theft, or for receiving stolen property in violation of Ohio R.C. 2913.51 or a municipal ordinance relating to receiving stolen property.

(d) Whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.18)

313.11 PORTABLE SIGNAL PREEMPTION DEVICES PROHIBITED.

- (a)
 - (1) No person shall possess a portable signal preemption device.
 - (2) No person shall use a portable signal preemption device to affect the operation of a traffic control signal.

(b) Subsection (a)(1) of this section does not apply to any of the following persons and subsection (a)(2) of this section does not apply to any of the following persons when responding to an emergency call:

- (1) A peace officer, as defined in Ohio R.C. 109.71(A)(11), (12), (14) or (19);
- (2) A State highway patrol trooper;
- (3) A person while occupying a public safety vehicle as defined in Ohio R.C. 4511.01(E)(1), (3) or (4).

(c) Whoever violates subsection (a)(1) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the first degree.

(d) As used in this section, "portable signal preemption device" means a device that, if activated by a person, is capable of changing a traffic control signal to green out of sequence.
(ORC 4513.031)

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

This subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.25)

331.02 PASSING TO RIGHT WHEN PROCEEDING IN OPPOSITE DIRECTIONS.

(a) Operators of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction, each operator shall give to the other one-half of the main traveled portion of the roadway or as nearly one-half as is reasonably possible.

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

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

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

(a) The following rules govern the overtaking and passing of vehicles proceeding in the same direction:

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

- (3) The operator of a vehicle overtaking and passing another vehicle proceeding in the same direction on a divided street or highway as defined in Section 331.31, a limited access highway as defined in Ohio R.C. 5511.02 or a highway with four or more traffic lanes, is not required to signal audibly to the vehicle being overtaken and passed.

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

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

331.04 OVERTAKING AND PASSING UPON RIGHT.

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

- (1) When the vehicle overtaken is making or about to make a left turn;
- (2) Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(b) The driver of a vehicle may overtake and pass another vehicle only under conditions permitting such movement in safety. The movement shall not be made by driving off the roadway.

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

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

331.05 OVERTAKING, PASSING TO LEFT OF CENTER.

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

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

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

331.06 ADDITIONAL RESTRICTIONS ON DRIVING UPON LEFT SIDE OF ROADWAY.

(a) No vehicle shall be driven upon the left side of the roadway under the following conditions:

- (1) When approaching the crest of a grade or upon a curve in the highway, where the operator's view is obstructed within such a distance as to create a hazard in the event traffic might approach from the opposite direction;
- (2) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel;
- (3) When approaching within 100 feet of or traversing any intersection or railroad grade crossing.

(b) This section does not apply to vehicles upon a one-way roadway, upon a roadway where traffic is lawfully directed to be driven to the left side or under the conditions described in Section 331.01(a)(2).

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

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

331.07 HAZARDOUS OR NO PASSING ZONES.

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

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

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

- (b) Subsection (a) of this section does not apply when all of the following apply:
- (1) The slower vehicle is proceeding at less than half the speed of the speed limit applicable to that location.
 - (2) The faster vehicle is capable of overtaking and passing the slower vehicle without exceeding the speed limit.
 - (3) There is sufficient clear sight distance to the left of the center or center line of the roadway to meet the overtaking and passing provisions of Section 331.05, considering the speed of the slower vehicle.

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

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

331.08 DRIVING IN MARKED LANES OR CONTINUOUS LINES OF TRAFFIC.

(a) Whenever any roadway has been divided into two or more clearly marked lanes for traffic or wherever traffic is lawfully moving in two or more substantially continuous lines in the same direction, the following rules apply:

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

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

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

(ORC 4511.33)

331.09 FOLLOWING TOO CLOSELY.

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

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

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

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

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

(ORC 4511.34)

331.10 TURNING AT INTERSECTIONS.

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

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

- (3) At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane of the roadway being entered lawfully available to the traffic moving in that lane.
- (4) Markers, buttons or signs may be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such markers, buttons or signs are so placed, no operator of a vehicle shall turn such vehicle at an intersection other than as directed and required by such markers, buttons or signs.

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

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

331.11 TURNING INTO PRIVATE DRIVEWAY, ALLEY OR BUILDING.

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

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

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

331.12 "U" TURNS RESTRICTED.

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

(b) The driver of an emergency vehicle or public safety vehicle, when responding to an emergency call, may turn the vehicle so as to proceed in the opposite direction. This subsection applies only when the emergency vehicle or public safety vehicle is responding to an emergency call, is equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle, and when the driver of the vehicle is giving an audible signal by siren, exhaust whistle or bell. This subsection does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.
(ORC 4511.37)

(c) Except as provided in subsection (b) hereof, no vehicle shall be turned so as to proceed in the opposite direction within an intersection, or upon any street in a business district, or upon a freeway, expressway or controlled-access highway, or where authorized signs are erected to prohibit such movement, or at any other location unless such movement can be made with reasonable safety to other users of the street and without interfering with the safe operation of any traffic that may be affected by such movement.

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

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

331.13 STARTING AND BACKING VEHICLES.

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

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

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

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

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

331.14 SIGNALS BEFORE CHANGING COURSE, TURNING OR STOPPING.

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

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

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

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

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

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

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

331.15 HAND AND ARM SIGNALS.

(a) Except as provided in subsection (b) hereof, all signals required by this Traffic Code, when given by hand and arm shall be given from the left side of the vehicle in the following manner, and such signals shall indicate as follows:

- (1) Left turn: Hand and arm extended horizontally;
- (2) Right turn: Hand and arm extended upward;
- (3) Stop or decrease speed: Hand and arm extended downward.

(b) As an alternative to subsection (a)(2) hereof, a person operating a bicycle or electric bicycle may give a right turn signal by extending the right hand and arm horizontally and to the right side of the bicycle or electric bicycle.

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

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

331.16 RIGHT OF WAY AT INTERSECTIONS.

(a) When two vehicles approach or enter an intersection from different streets or highways at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

(b) The right of way rule declared in subsection (a) hereof, is modified at through highways and otherwise as stated in this Traffic Code and Ohio R.C. Chapter 4511.
(ORC 4511.41)

(c) Subject to compliance with any traffic control device, when two vehicles approach or enter a junction of two or more alleys from different directions at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

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

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

331.17 RIGHT OF WAY WHEN TURNING LEFT.

(a) The operator of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right of way to any vehicle approaching from the opposite direction, whenever the approaching vehicle is within the intersection or so close to the intersection, alley, private road or driveway as to constitute an immediate hazard.

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

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

331.18 OPERATION OF VEHICLE AT YIELD SIGNS.

(a) The driver of a vehicle approaching a yield sign shall slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways. Whenever a driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, the collision shall be prima-facie evidence of the driver's failure to yield the right of way.

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

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

(ORC 4511.43(B))

331.19 OPERATION OF VEHICLE AT STOP SIGNS.

(a) Except when directed to proceed by a law enforcement officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.

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

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

(ORC 4511.43(A))

331.20 EMERGENCY OR PUBLIC SAFETY VEHICLES AT STOP SIGNALS OR SIGNS.

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

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

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

(ORC 4511.03)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ORC 4511.431)

331.24 RIGHT OF WAY OF FUNERAL PROCESSION.

(a) As used in this section "funeral procession" means two or more vehicles accompanying the cremated remains or the body of a deceased person in the daytime when each of the vehicles has its headlights lighted and is displaying a purple and white or an orange and white pennant attached to each vehicle in such a manner as to be clearly visible to traffic approaching from any direction.

(b) Excepting public safety vehicles proceeding in accordance with Section 331.21 or when directed otherwise by a police officer, pedestrians and the operators of all vehicles shall yield the right of way to each vehicle that is a part of a funeral procession. Whenever the lead vehicle in a funeral procession lawfully enters an intersection, the remainder of the vehicles in the procession may continue to follow the lead vehicle through the intersection notwithstanding any traffic control devices or right-of-way provisions of this Traffic Code, provided that the operator of each vehicle exercises due care to avoid colliding with any other vehicle or pedestrian.

(c) No person shall operate any vehicle as a part of a funeral procession without having the headlights of the vehicle lighted and without displaying a purple and white or an orange and white pennant in such a manner as to be clearly visible to traffic approaching from any direction.

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

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

(ORC 4511.451)

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

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

(b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle.

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

331.26 DRIVING UPON STREET POSTED AS CLOSED FOR REPAIR.

(a) No person shall drive upon, along or across a street or highway, or any part of a street or highway that has been closed in the process of its construction, reconstruction or repair, and posted with appropriate signs by the authority having jurisdiction to close such street or highway.

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

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

331.27 FOLLOWING AND PARKING NEAR EMERGENCY OR SAFETY VEHICLES.

(a) The driver of any vehicle, other than an emergency vehicle or public safety vehicle on official business, shall not follow any emergency vehicle or public safety vehicle traveling in response to an alarm closer than 500 feet, or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm, unless directed to do so by a police officer or a firefighter.

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

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

331.28 DRIVING OVER FIRE HOSE.

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

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

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

(ORC 4511.73)

331.29 DRIVING THROUGH SAFETY ZONE.

(a) No vehicle shall at any time be driven through or within a safety zone.

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

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

(ORC 4511.60)

331.30 ONE-WAY STREETS AND ROTARY TRAFFIC ISLANDS.

(a) Upon a roadway designated and posted with signs for one-way traffic a vehicle shall be driven only in the direction designated. A vehicle passing around a rotary traffic island shall be driven only to the right of the rotary traffic island.

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

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

(ORC 4511.32)

331.31 DRIVING UPON DIVIDED ROADWAYS.

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

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

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

(ORC 4511.35)

331.32 ENTERING AND EXITING CONTROLLED-ACCESS HIGHWAY.

(a) No person shall drive a vehicle onto or from any controlled-access highway except at such entrances and exits as are established by public authority.

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

331.33 OBSTRUCTING INTERSECTION, CROSSWALK OR GRADE CROSSING.

(a) No driver shall enter an intersection or marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians or railroad trains, notwithstanding any traffic control signal indication to proceed.

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

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

(ORC 4511.712)

331.34 FAILURE TO CONTROL; 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) No person shall drive any vehicle, other than a bicycle or an electric bicycle if the motor is not engaged, upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway. (ORC 4511.711)

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

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

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

(ORC 4511.711)

331.38 STOPPING FOR SCHOOL BUS; DISCHARGING CHILDREN.

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

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

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

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

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

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

- (f) As used in this section:
- (1) "Head start agency" has the same meaning as in Ohio R.C. 3301.32.
 - (2) "School bus", as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the State Board of Education, is painted the color and displays the markings described in Ohio R.C. 4511.77, and is equipped with amber and red visual signals meeting the requirements of Ohio R.C. 4511.771, irrespective of whether or not the bus has fifteen or more children aboard at any time. "School bus" does not include a van owned and operated by a head start agency, irrespective of its color, lights, or markings.
- (g) (1) Whoever violates subsection (a) of this section may be fined an amount not to exceed five hundred dollars (\$500.00). A person who is issued a citation for a violation of subsection (a) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.
- (2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (a)(7) of Ohio R.C. 4510.02. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the Registrar of Motor Vehicles, together with notice of the court's action. (ORC 4511.75)

331.381 FAILURE-TO-STOP FOR SCHOOL BUS VIOLATIONS; PROCEDURES.

As used in this section, "license plate" includes, but is not limited to, any temporary license placard issued under Ohio R.C. 4503.182 or similar law of another jurisdiction.

When the operator of a school bus believes that a motorist has violated Ohio R.C. 4511.75(A) or Section 331.38(a) or this Traffic Code, the operator shall report the license plate number and a general description of the vehicle and of the operator of the vehicle to the law enforcement agency exercising jurisdiction over the area where the alleged violation occurred. The information contained in the report relating to the license plate number and to the general description of the vehicle and the operator of the vehicle at the time of the alleged violation may be supplied by any person with first-hand knowledge of the information. Information of which the operator of the school bus has first-hand knowledge also may be corroborated by any other person.

Upon receipt of the report of the alleged violation of Ohio R.C. 4511.75(A) or Section 331.38(a) or this Traffic Code, the law enforcement agency shall conduct an investigation to attempt to determine or confirm the identity of the operator of the vehicle at the time of the alleged violation. If the identity of the operator at the time of the alleged violation is established, the reporting of the license plate number of the vehicle shall establish probable cause for the law enforcement agency to issue a citation for the violation of Section 331.38(a). However, if the identity of the operator of the vehicle at the time of the alleged violation cannot be established, the law enforcement agency shall issue a warning to the owner of the vehicle at the time of the alleged violation, except in the case of a leased or rented vehicle when the warning shall be issued to the lessee at the time of the alleged violation. (ORC 4511.751)

331.39 DRIVING ACROSS GRADE CROSSING.

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

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

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

331.40 STOPPING AT GRADE CROSSING.

- (a) (1) Except as provided in subsection (a)(2) hereof, the operator of any bus, any school vehicle, or any vehicle transporting material required to be placarded under 49 CFR Parts 100-185, before crossing at grade any track of a railroad, shall stop the vehicle, and, while so stopped, shall listen through an open door or open window and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, and shall proceed only upon exercising due care after stopping, looking and listening as required by this section. Upon proceeding, the operator of such a vehicle shall cross only in a gear that will ensure there will be no necessity for changing gears while traversing the crossing and shall not shift gears while crossing the tracks.

- (2) This section does not apply at grade crossings when the Ohio Public Utilities Commission has authorized and approved an exempt crossing as provided in this subsection.
- A. Any local authority may file an application with the Commission requesting the approval of an exempt crossing. Upon receipt of such a request, the Commission shall authorize a limited period for the filing of comments by any party regarding the application and then shall conduct a public hearing in the community seeking the exempt crossing designation. The Commission shall provide appropriate prior public notice of the comment period and the public hearing. By registered mail, the Commission shall notify each railroad operating over the crossing of the comment period.
 - B. After considering any comments or other information received, the Commission may approve or reject the application. By order, the Commission may establish conditions for the exempt crossing designation, including compliance with division (b) of 49 C.F.R. Part 392.10, when applicable. An exempt crossing designation becomes effective only when appropriate signs giving notice of the exempt designation are erected at the crossing as ordered by the Commission and any other conditions ordered by the Commission are satisfied.
 - C. By order, the Commission may rescind any exempt crossing designation made under this section if the Commission finds that a condition at the exempt crossing has changed to such an extent that the continuation of the exempt crossing designation compromises public safety. The Commission may conduct a public hearing to investigate and determine whether to rescind the exempt crossing designation. If the Commission rescinds the designation, it shall order the removal of any exempt crossing signs and may make any other necessary order.
- (3) As used in this section:
- A. "School vehicle" means any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.
 - B. "Bus" means any vehicle originally designed by its manufacturer to transport sixteen or more passengers, including the driver, or carries sixteen or more passengers, including the driver.
 - C. "Exempt crossing" means a highway rail grade crossing authorized and approved by the Public Utilities Commission under subsection (a)(2) hereof at which vehicles may cross without making the stop otherwise required by this section.
- (4) Except as otherwise provided in this subsection (a)(4), whoever violates subsection (a) hereof is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) hereof or Ohio R.C. 4511.76, 4511.761, 4511.762, 4511.764, 4511.77 or 4511.79, or a municipal ordinance that is substantially similar to any of those sections, whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 4511.63)

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

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

331.41 SHORTCUTTING; AVOIDING TRAFFIC CONTROL DEVICES.

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

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

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

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

331.42 LITTERING FROM MOTOR VEHICLE.

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

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

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

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

331.43 WEARING EARPLUGS OR EARPHONES PROHIBITED.

(a) No person shall operate a motor vehicle while wearing earphones over, or earplugs in, both ears. As used in this section, "earphones" means any headset, radio, tape player or other similar device that provides the listener with radio programs, music or other recorded information through a device attached to the head and that covers all or a portion of both ears. "Earphones" does not include speakers or other listening devices that are built into protective headgear.

(b) This section does not apply to:

- (1) Any person wearing a hearing aid;
- (2) Law enforcement personnel while on duty;
- (3) Fire 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 street or highway; or
- (5) Any person engaged in the operation of refuse collection equipment.

(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 4511.84)

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

(a) No person shall operate a vehicle on or onto a public street or highway that is temporarily covered by a rise in water level, including groundwater or an overflow of water, and that is clearly marked by a sign that specifies that the road is closed due to the rise in water level and that any person who uses the closed portion of the road may be fined up to two thousand dollars (\$2,000).

(b) A person who is issued a citation for a violation of subsection (a) hereof is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in court, but instead must appear in person in the proper court to answer the charge.

- (c)
- (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.
 - (2) In addition to the financial sanctions authorized or required under Section 501.99 and to any costs otherwise authorized or required under any provision of law, the court imposing the sentence upon an offender who is convicted of or pleads guilty to a violation of subsection (a) hereof shall order the offender to reimburse one or more rescuers for the cost any such rescuer incurred in rescuing the person, excluding any cost of transporting the rescued person to a hospital or other facility for treatment of injuries, up to a cumulative maximum of two thousand dollars (\$2,000). If more than one rescuer was involved in the emergency response, the court shall allocate the reimbursement proportionately, according to the cost each rescuer incurred. A financial sanction imposed under this section is a judgment in favor of the rescuer and, subject to a determination of indigency under division (B) of Ohio R.C. 2929.28, a rescuer may collect the financial sanction in the same manner as provided in Ohio R.C. 2929.28.

- (d) As used in this section:
- (1) "Emergency medical service organization", "firefighting agency" and "private fire company" have the same meanings as in Ohio R.C. 9.60.
 - (2) "Rescuer" means a state agency, political subdivision, firefighting service, private fire company, or emergency medical service organization.
(ORC 4511.714.)

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

- D. As used in this subsection, "crosswalk" has the meaning given that term in Section 301.09. The Director may, upon request by resolution of Council, and upon submission by the Municipality of such engineering, traffic and other information as the Director considers necessary, designate a school zone on any portion of a State route lying within the Municipality that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of the crosswalk is no more than 1,320 feet. Such a school zone shall include the distance encompassed by the crosswalk and extending 300 feet on each approach direction of the State route;
- (2) Twenty-five miles per hour in all other portions of the Municipality, except on State routes outside business districts, through highways outside business districts and alleys;
 - (3) Thirty-five miles per hour on all State routes or through highways within the Municipality outside business districts, except as provided in subsections (b)(4) and (5) hereof;
 - (4) Fifty miles per hour on controlled-access highways and expressways within the Municipality, except as provided in subsections (b)(8) to (b)(12) of this section;
 - (5) Fifty miles per hour on State routes within the Municipality outside urban districts unless a lower prima-facie speed is established as further provided in this section;
 - (6) Fifteen miles per hour on all alleys within the Municipality;
 - (6.1) Ten miles per hour in any park;
 - (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:
- (1) At a speed exceeding fifty-five miles per hour, except upon a highway, expressway or freeway as provided in subsection (b)(8), (9), (10) and (12) hereof;
 - (2) At a speed exceeding sixty miles per hour upon a highway as provided in subsection (b)(8) hereof;
 - (3) At a speed exceeding sixty-five miles per hour upon an expressway as provided in subsection (b)(9) hereof, or upon a freeway as provided in subsection (b)(12) of this section, except upon a freeway as provided in subsection (b)(10) hereof;
 - (4) At a speed exceeding seventy miles per hour upon a freeway as provided in subsection (b)(10) hereof;
 - (5) At a speed exceeding the posted speed limit upon a highway, expressway or freeway for which the Director has determined and declared a speed limit pursuant to Ohio R.C. 4511.21(I)(2) or (L)(2).

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

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

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

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

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

a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.

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

333.031 APPROACHING A STATIONARY PUBLIC SAFETY, 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 a slow speed as to impede or block the normal and reasonable movement of traffic, except when stopping or reduced speed is necessary for safe operation or to comply with law.

(b) Whenever, in accordance with Ohio R.C. 4511.22(B), the minimum speed limit of a controlled-access highway, expressway or freeway has been declared and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. No person shall operate a motor vehicle below the speed limits posted upon such signs except when necessary for safe operation or in compliance with law.

(c) In a case involving a violation of this section, the trier of fact, in determining whether the vehicle was being operated at an unreasonably slow speed, shall consider the capabilities of the vehicle and its operator.

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

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

333.05 SPEED LIMITATIONS OVER BRIDGES.

(a) No person shall operate a vehicle over any bridge or other elevated structure constituting a part of a street at a speed which is greater than the maximum speed that can be maintained with safety to such bridge or structure, when such structure is posted with authorized signs stating such maximum speed. Such signs shall be erected and maintained at a distance of at least 100 feet before each end of such structure.

(b) Upon the trial of any person charged with a violation of this section, proof of the determination of the maximum speed and the existence of such signs shall constitute prima-facie evidence of the maximum speed which can be maintained with safety to such bridge or structure.

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

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

333.06 SPEED EXCEPTIONS FOR EMERGENCY OR SAFETY VEHICLES.

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

333.07 STREET RACING PROHIBITED.

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

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

(b) No person shall participate in street racing upon any public road, street or highway in this Municipality.

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

333.08 OPERATION WITHOUT REASONABLE CONTROL.

(a) No person shall operate a motor vehicle, agricultural tractor, or agricultural tractor that is towing, pulling, or otherwise drawing a unit of farm machinery on any street, highway, or property open to the public for vehicular traffic without being in reasonable control of the vehicle, agricultural tractor or unit of farm machinery.

(b) Whoever violates this section is guilty of operating a motor vehicle or agricultural tractor without being in control of it, a minor misdemeanor. (ORC 4511.202)

333.09 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)

333.10 ARREST OR CITATION BASED ON RADAR, TIMING DEVICE OR RADIO MESSAGE.

(a) The driver of any motor vehicle that has been checked by radar, or by any electrical or mechanical timing device to determine the speed of the motor vehicle over a measured distance of a highway or a measured distance of a private road or driveway, and found to be in violation of Section 333.03 of the Traffic Code of the City of North Canton, may be arrested until a warrant can be obtained, provided the arresting officer has observed the recording of the speed of the motor vehicle by the radio microwaves, electrical or mechanical timing device, or has received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwaves, electrical or mechanical timing device; provided, in case of an arrest based on such a message, the radio message has been dispatched immediately after the speed of the motor vehicle was recorded and the arresting officer is furnished a description of the motor vehicle for proper identification and the recorded speed.

(b) If the driver of a motor vehicle being driven on a public street or highway of this State is observed violating any provision of this chapter other than Section 333.03 of the Traffic Code of the City of North Canton by a law enforcement officer situated at any location, including in any type of airborne aircraft or airship, that law enforcement officer may send a radio message to another law enforcement officer, and the other law enforcement officer may arrest the driver of the motor vehicle until a warrant can be obtained or may issue the driver a citation for the violation; provided, if an arrest or citation is based on such a message, the radio message is dispatched immediately after the violation is observed and the law enforcement officer who observes the violation furnishes to the law enforcement officer who makes the arrest or issues the citation a description of the alleged violation and the motor vehicle for proper identification. (Ord. 14-02. Passed 1-28-02.)

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.

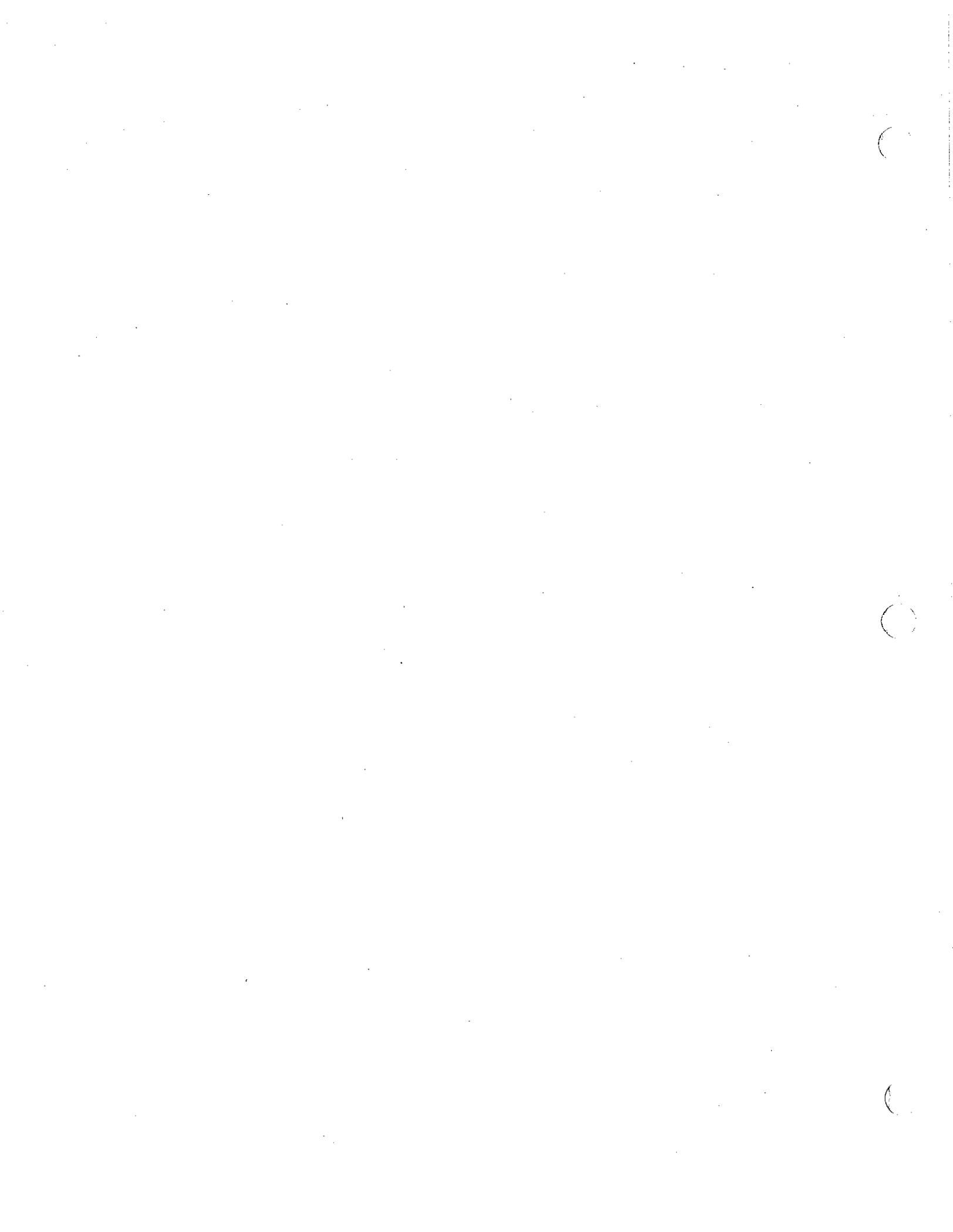
(d) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.

(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)



- (c) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing. This prohibition does not apply to emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash or recyclable materials on the roadside, rural mail delivery vehicles, vehicles transporting preschool children as provided in Ohio R.C. 4513.182, highway maintenance vehicles, funeral hearses, funeral escort vehicles and similar equipment operated by the Department or local authorities, which shall be equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating amber light, but shall not display a flashing, oscillating or rotating light of any other color, nor to vehicles or machinery permitted by Section 337.10 to have a flashing red light.
- (2) When used on a street or highway, farm machinery and vehicles escorting farm machinery may be equipped with and display a flashing, oscillating, or rotating amber light, and the prohibition contained in subsection (c)(1) hereof does not apply to such machinery or vehicles. Farm machinery also may display the lights described in Section 337.10.

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

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

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

337.17 FOCUS AND AIM OF HEADLIGHTS.

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

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

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

337.18 MOTOR VEHICLE AND MOTORCYCLE BRAKES.

- (a) The following requirements govern as to brake equipment on vehicles:
- (1) Every motor vehicle, other than a motorcycle, when operated upon a street or highway, shall be equipped with brakes adequate to control the movement of and to stop and hold such motor vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, then on such motor vehicles manufactured or assembled after January 1, 1942, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.
 - (2) Every motorcycle, when operated upon a street or highway, shall be equipped with at least one adequate brake, which may be operated by hand or by foot.
 - (3) Every motorized bicycle shall be equipped with brakes meeting the rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4511.521.
 - (4) When operated upon the streets or highways of this Municipality, the following vehicles shall be equipped with brakes adequate to control the movement of and to stop and to hold the vehicle designed to be applied by the driver of the towing motor vehicle from its cab, and also designed and connected so that, in case of a breakaway of the towed vehicle, the brakes shall be automatically applied:
 - A. Except as otherwise provided in this section, every trailer or semitrailer, except a pole trailer, with an empty weight of two thousand pounds or more, manufactured or assembled on or after January 1, 1942;
 - B. Every manufactured home or travel trailer with an empty weight of two thousand pounds or more, manufactured or assembled on or after January 1, 2001.
 - (5) Every watercraft trailer with a gross weight or manufacturer's gross vehicle weight rating of three thousand pounds or more that is manufactured or assembled on or after January 1, 2008, shall have separate brakes equipped with hydraulic surge or electrically operated brakes on two wheels.
 - (6) In any combination of motor-drawn trailers or semitrailers equipped with brakes, means shall be provided for applying the rearmost brakes in approximate synchronism with the brakes on the towing vehicle, and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost brakes; or both of the above means, capable of being used alternatively, may be employed.
 - (7) Every vehicle and combination of vehicles, except motorcycles and motorized bicycles, and except trailers and semitrailers of a gross weight of less than 2,000 pounds, and pole trailers, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular

(e) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of subsection (c) or (d) of this section or causing the arrest of or commencing a prosecution of a person for a violation of subsection (c) or (d) of this section, and absent another violation of law, a law enforcement officer's view of the interior or visual inspection of a motor vehicle being operated on any street or highway may not be used for the purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed.

(f) The Ohio Director of Public Safety shall adopt such rules as are necessary to carry out this section.

(g) The failure of an operator of a motor vehicle to secure a child in a child restraint system, a booster seat or an occupant restraining device as required by this section is not negligence imputable to the child, is not admissible as evidence in any civil action involving the rights of the child against any other person allegedly liable for injuries to the child, is not to be used as a basis for a criminal prosecution of the operator of the motor vehicle other than a prosecution for a violation of this section, and is not admissible as evidence in any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of this section.

(h) This section does not apply when an emergency exists that threatens the life of any person operating or occupying a motor vehicle that is being used to transport a child who otherwise would be required to be restrained under this section. This section does not apply to a person operating a motor vehicle who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or a chiropractor licensed to practice in this State under Ohio R.C. Chapter 4734 that states that the child who otherwise would be required to be restrained under this section has a physical impairment that makes use of a child restraint system, booster seat or an occupant restraining device impossible or impractical, provided that the person operating the vehicle has safely and appropriately restrained the child in accordance with any recommendations of the physician or chiropractor as noted on the affidavit.

(i) Nothing in this section shall be construed to require any person to carry with the person the birth certificate of a child to prove the age of the child, but the production of a valid birth certificate for a child showing that the child was not of an age to which this section applies is a defense against any ticket, citation or summons issued for violating this section.

(j) Whoever violates subsection (a), (b), (c) or (d) of this section shall be punished as follows, provided that the failure of an operator of a motor vehicle to secure more than one child in a child restraint system, booster seat, or occupant restraining device as required by this section that occurred at the same time, on the same day, and at the same location is deemed to be a single violation of this section:

- (1) Except as otherwise provided in subsection (j)(2) of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than twenty-five dollars (\$25.00) nor more than seventy-five dollars (\$75.00).
- (2) If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a), (b), (c) or (d) of this section or of a state law or municipal ordinance that is substantially similar to any of those subsections, the offender is guilty of a misdemeanor of the fourth degree.
(ORC 4511.81)

337.27 DRIVERS AND PASSENGERS REQUIRED TO WEAR SEAT BELTS.

- (a) As used in this section:
- (1) "Automobile" means any commercial tractor, passenger car, commercial car or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States Secretary of Transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.
 - (2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum Federal vehicle safety standards established by the United States Department of Transportation.
 - (3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.
 - (4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as provided in Ohio R.C. 4501.01.
 - (5) "Vehicle" and "motor vehicle", as used in the definitions of the terms set forth in subsection (a)(4) hereof, have the same meanings as provided in Chapter 301.
 - (6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in Ohio R.C. 2307.71 and an asbestos claim, as defined in Ohio R.C. 2307.91, but does not include a civil action for damages for breach of contract or another agreement between persons.
- (b) No person shall do either of the following:
- (1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;
 - (2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in subsection (b)(3) hereof is wearing all of the available elements of a properly adjusted occupant restraining device;
 - (3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;
 - (4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.
- (c)
- (1) Subsection (b)(3) hereof does not apply to a person who is required by Section 337.26 to be secured in a child restraint device or booster seat.
 - (2) Subsection (b)(1) hereof does not apply to a person who is an employee of the United States Postal Service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees.
 - (3) Subsections (b)(1) and (3) hereof do not apply to a person who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or a chiropractor licensed to practice in this State under Ohio R.C. Chapter 4734 that states the following:

- A. That the person has a physical impairment that makes use of an occupant restraining device impossible or impractical;
 - B. Whether the physical impairment is temporary, permanent or reasonably expected to be permanent;
 - C. If the physical impairment is temporary, how long the physical impairment is expected to make the use of an occupant restraining device impossible or impractical.
- (4) Subsections (b)(1) and (3) of this section do not apply to a person who has registered with the Registrar of Motor Vehicles in accordance with subsection (c)(5) of this section.
 - (5) A person who has received an affidavit under subsection (c)(3) of this section stating that the person has a permanent or reasonably expected to be permanent physical impairment that makes use of an occupant restraining device impossible or impracticable may register with the Registrar attesting to that fact. Upon such registration, the Registrar shall make that information available in the law enforcement automated data system. A person included in the database under subsection (c)(5) of this section is not required to have the affidavit obtained in accordance with subsection (c)(3) of this section in their possession while operating or occupying an automobile.
 - (6) A physician or chiropractor who issues an affidavit for the purposes of subsection (c)(3) or (4) of this section is immune from civil liability arising from any injury or death sustained by the person who was issued the affidavit due to the failure of the person to wear an occupant restraining device unless the physician or chiropractor, in issuing the affidavit, acted in a manner that constituted willful, wanton or reckless misconduct.
 - (7) The Registrar shall adopt rules in accordance with Ohio R.C. Chapter 119, establishing a process for a person to be included in the database under subsection (c)(5) of this section. The information provided and included in the database under subsection (c)(5) of this section is not a public record subject to inspection or copying under Ohio R.C. 149.43.

(d) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of subsection (b) hereof has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(e) All fines collected for violations of subsection (b) hereof shall be forwarded to the Treasurer of State for deposit as provided in Ohio R.C. 4513.263.

- (f) (1) Subject to subsection (f)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of subsection (b)(1) or (3) or the failure of a person to ensure that each minor who is a passenger of an automobile being operated by that person is wearing all of the available elements of a properly adjusted occupant restraining device, in violation of subsection (b)(2) of this section, shall not be considered or used by the trier of fact in a tort action as evidence of negligence or contributory negligence. But the trier of fact may

determine based on evidence admitted consistent with the Ohio rules of evidence that the failure contributed to the harm alleged in the tort action and may diminish a recovery of compensatory damages that represents noneconomic loss, as defined in Ohio R.C. 2307.011 in a tort action that could have been recovered but for the plaintiff's failure to wear all of the available elements of a properly adjusted occupant restraining device. Evidence of that failure shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in a criminal action involving the person other than a prosecution for a violation of this section.

- (2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:
- A. It seeks to recover damages for injury or death to the occupant.
 - B. The defendant in question is the manufacturer, designer, distributor or seller of the passenger car.
 - C. The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.
- (g) (1) Whoever violates subsection (b)(1) of this section shall be fined thirty dollars (\$30.00).
- (2) Whoever violates subsection (b)(3) of this section shall be fined twenty dollars (\$20.00).
- (3) Except as otherwise provided in this subsection, whoever violates subsection (b)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(4) of this section, whoever violates subsection (b)(4) of this section is guilty of a misdemeanor of the third degree.
(ORC 4513.263)

337.28 USE OF SUNSCREENING, NONTRANSPARENT AND REFLECTORIZED MATERIALS.

(a) Requirements.

- (1) No person shall operate, on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State with any suncreening material, or other product or material which has the effect of making the windshield or windows nontransparent or would alter the windows' color, increase its reflectivity, or reduce its light transmittance, unless the product or material satisfies one of the following exceptions:

- A. Any manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle until such standard is subsequently repealed or reduced. In "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) "manufacturer" means any person engaged in the manufacturing or assembling of motor vehicles or motor vehicle equipment, including any person importing motor vehicles or motor vehicle equipment for resale. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site <http://www.gpo.gov>.
 - B. Any 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 suncreening material or other product or material applied to the side windows to the immediate right or left of 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) **Exemptions.** The provisions of this section do not apply to:
- (1) A motor vehicle registered in this State in the name of a person, or the person's parent, legal guardian or spouse who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or an affidavit signed by an optometrist licensed to practice in this State under Ohio R.C. Chapter 4725 that states that the person has a physical condition that makes it necessary to equip such motor vehicle with 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) **Definitions.** As used in this section, certain terms are defined as follows:
- (1) "Motor vehicle" has the same meaning as specified in Section 301.20.
 - (2) "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.
 - (3) "Transmittance" means the ratio of the amount of total light, expressed in percentages, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.
 - (4) "Windshield" means the front exterior viewing device of a motor vehicle.
 - (5) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield or any roof-mounted viewing device.
 - (6) "Manufacturer" unless otherwise specified in this section, means any person who engages in the manufacturing or assembling of 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) **Penalty.** Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.241)

337.29 BUMPER HEIGHTS.**(a) Definitions.**

- (1) "Passenger car" means any motor vehicle with motive power, designed for carrying ten persons or less, except a multipurpose passenger vehicle or motorcycle.
- (2) "Multipurpose passenger vehicle" means a motor vehicle with motive power, except a motorcycle, designed to carry ten persons or less, that is constructed either on a truck chassis or with special features for occasional off-road operation.
- (3) "Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property and having a gross vehicle weight rating of 10,000 pounds or less.
- (4) "Manufacturer" has the same meaning as in Ohio R.C. 4501.01.
- (5) "Gross vehicle weight rating" means the manufacturer's gross vehicle weight rating established for the vehicle.
- (6) "Body floor height" means the vertical distance between top of the frame rail and the bottom of the passenger compartment (cab) floor. In the event that the vehicle is a truck body, floor height will be measured by the vertical distance between the passenger compartment (cab) floor and the floor of the truck bed.
- (7) "Bumper height" means the vertical distance between the ground and the highest point of the bottom of the bumper, measured when the vehicle is laden on a level surface with the vehicle tires inflated to the manufacturer's recommended pressure.
- (8) "Frame" means the main longitudinal structural members of the chassis of the vehicle or, for vehicles with unitized body construction, the lowest main longitudinal structural members of the body of the vehicle.
- (9) "Wheel track distance" means the distance on the ground between the center of the tire tread on one side of the vehicle, and the center of the tire tread on the opposite side. (OAC 4501-43-02)

(b) Prohibitions; Application.

- (1) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State that does not conform to the requirements of this section.
- (2) No person shall modify any motor vehicle registered in this State in such a manner as to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation, and no person shall disconnect any part of the original suspension system of the vehicle to defeat the safe operation of that system including the installation of inverted, altered or modified suspension system component parts which results in elevation of the height of the vehicle bumper or frame unit which is not in compliance with this section.
- (3) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State without a bumper on the front and rear of the vehicle if such vehicle was equipped with bumpers as standard equipment by the manufacturer.
- (4) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State if the difference in height between the body floor and the top of the frame exceeds four inches.
- (5) Nothing contained in this section shall be construed to prohibit either of the following:

- A. The installation upon a passenger car, multipurpose passenger vehicle or truck registered in this State of heavy duty equipment, including shock absorbers and overload springs as long as such equipment does not cause the vehicle to be in violation of this section;
- B. The operation on a street or highway of a passenger car, multipurpose passenger vehicle or truck registered in this State with normal wear to the suspension system if the normal wear does not adversely affect the control of the vehicle.
- (6) This section does not apply to any specially designed or modified passenger car, multipurpose passenger vehicle or truck when operated off a street or highway in races and similar events.
- (7) A specially designed or modified passenger car, multipurpose passenger vehicle or truck which does not conform to this section shall not be operated on a street or highway.
(OAC 4501-43-03)

(c) Specifications.

- (1) The horizontal bumper shall be at least 4.5 inches in vertical height, centered on the vehicle's centerline, and extend no less than the width of the respective wheel track distances. Bumpers shall be horizontal load bearing bumpers and attached to the vehicle frame to effectively transfer impact when engaged.
- (2) Maximum bumper heights shall be determined by the type of vehicle at time of manufacture. If other than a passenger vehicle, the maximum bumper height shall be determined by the gross vehicle weight rating (GVWR) at the time of manufacture. The height shall be measured in terms of the vertical distance between the ground and the bottom of the bumper. Maximum bumper heights are as follows:

| | <u>Front (inches)</u> | <u>Rear (inches)</u> |
|--------------------------------|-----------------------|----------------------|
| Passenger Vehicles | 22 | 22 |
| All Other Vehicles: | | |
| 4,500 lbs. and under GVWR | 24 | 26 |
| 4,501 lbs. to 7,500 lbs. GVWR | 27 | 29 |
| 7,501 lbs. to 10,000 lbs. GVWR | 28 | 31 |

- (3) If the body and/or truck bed height is altered the difference in height between the body floor and/or the truck bed floor to the top of the frame rail shall not exceed four inches.
- (4) For any vehicle with bumpers or attaching components which have been modified or altered from the original manufacturer's design in order to conform with the maximum bumper requirements of this section, the bumper height shall be measured from a level surface to the bottom of the vehicle frame rail at the most forward and rearward points of the frame rail. Frame rail height if bumper modified or altered:

| | <u>Front (inches)</u> | <u>Rear (inches)</u> |
|--------------------------------|-----------------------|----------------------|
| Passenger Vehicles | 22 | 22 |
| All Other Vehicles: | | |
| 4,500 lbs. and under GVWR | 24 | 26 |
| 4,501 lbs. to 7,500 lbs. GVWR | 27 | 29 |
| 7,501 lbs. to 10,000 lbs. GVWR | 28 | 31 |

- (5) The height restriction in this subsection (c) applies to the distance from the ground to the bottom of the frame rail under any one or more of the following conditions:
- A. A motor vehicle is not equipped with a front and rear bumper.
 - B. The bumper height relative to the frame rails has been altered.
 - C. A supplemental bumper has been installed or an addition to the original or replacement has been made.
(OAC 4501-43-04)

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.30 EXCESSIVE VEHICULAR SOUND SYSTEM AMPLIFICATION PROHIBITED.

(a) No person operating or occupying a motor vehicle on a street, highway, alley, parking lot or driveway shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of fifty or more feet from the vehicle.

(b) "Sound amplification system" means any radio tape player, compact disc player, loudspeaker or other electronic device used for the amplification of the human voice or musical instruments.

(c) "Plainly audible" means any sound produced by a sound amplification system from within the vehicle which clearly can be heard at a distance of fifty feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot or driveway.

(d) It is an affirmative defense to a charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system and that any of the following apply:

- (1) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;
- (2) The vehicle was an emergency or public safety vehicle;
- (3) The vehicle was owned and operated by a governmental agency or a gas, electric, communications or refuse company;
- (4) The system was used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in compliance with proper authorization by the City;
- (5) The vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval.

(Ord. 84-91. Passed 11-25-91; Ord. 111-2000. Passed 1-16-01.)

(e) Whoever violates this section is guilty of a minor misdemeanor; if the offender has had one prior conviction of this offense, the second violation of this section is a misdemeanor of the fourth degree; if the offender has had two or more prior convictions of this offense, any subsequent violation of this section is a misdemeanor of the third degree.
(Ord. 111-2000. Passed 1-16-01.)

337.31 DIRECTIONAL SIGNALS REQUIRED.

- (a) (1) No person shall operate any motor vehicle manufactured or assembled on or after January 1, 1954, unless the vehicle is equipped with electrical or mechanical directional signals.
- (2) No person shall operate any motorcycle or motor-driven cycle manufactured or assembled on or after January 1, 1968, unless the vehicle is equipped with electrical or mechanical directional signals.

(b) "Directional signals" means an electrical or mechanical signal device capable of clearly indicating an intention to turn either to the right or to the left and which shall be visible from both the front and rear.

(c) All mechanical signal devices shall be self-illuminating devices when in use at the times mentioned in Section 337.02.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.261)

TITLE SEVEN - Parking
Chap. 351. Parking Generally.

CHAPTER 351
Parking Generally

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|--------|--|--------|---|
| 351.01 | Police may remove unattended vehicle which obstructs traffic. | 351.07 | Unattended vehicle: duty to stop engine, remove key, set brake and turn wheels. |
| 351.02 | Registered owner prima-facie liable for unlawful parking. | 351.08 | Opening vehicle door on traffic side. |
| 351.03 | Prohibited standing or parking places. | 351.09 | Truck loading zones. |
| 351.04 | Parking near curb; hand-capped locations on public and private lots and garages. | 351.10 | Bus stops and taxicab stands. |
| 351.05 | Manner of angle parking. | 351.11 | Parking in alleys and narrow streets; exceptions. |
| 351.06 | Selling, washing or repairing vehicle upon roadway. | 351.12 | Prohibition against parking on streets or highways. |
| | | 351.13 | Parking on posted private property. |
| | | 351.14 | All-night parking prohibited. |

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 as provided in subsection (b) hereof;
- (2) In front of a public or private driveway;
- (3) Upon private property, except upon driveways, parking lots, in garages, or areas improved for vehicular use and in accordance with City Zoning, Building, and Housing Codes;
- (4) Within an intersection;
- (5) Within ten feet of a fire hydrant;
- (6) On a crosswalk;
- (7) Within twenty feet of a crosswalk at an intersection;
- (8) Within thirty feet of, and upon the approach to, any flashing beacon, stop sign or traffic control device;
- (9) 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;
- (10) Within fifty feet of the nearest rail of a railroad crossing;
- (11) 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;
- (12) Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic;
- (13) Alongside any vehicle stopped or parked at the edge or curb of a street;
- (14) Upon any bridge or other elevated structure upon a street, or within a street tunnel;
- (15) 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;
- (16) Within one foot of another parked vehicle;
- (17) On the roadway portion of a freeway, expressway or thruway.

(b) A person shall be permitted, without charge or restriction, to stand or park on a sidewalk, a motor-driven cycle or motor scooter that has an engine not larger than one hundred and fifty cubic centimeters, or a bicycle or electric bicycle, provided that the motor-driven cycle, motor scooter, bicycle or electric bicycle does not impede the normal flow of pedestrian traffic. This division does not authorize any person to operate a vehicle in violation of Section 331.37.

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

(Ord. 31-2016. Passed 3-14-16.)

TITLE NINE - Pedestrians, Bicycles and Motorcycles

Chap. 371. Pedestrians.

Chap. 373. Bicycles and Motorcycles.

Chap. 374. Bicycle Licensing.

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

**CHAPTER 371
Pedestrians**

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

CROSS REFERENCES

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

371.01 RIGHT OF WAY IN CROSSWALK.

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

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

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

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

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

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

371.02 RIGHT OF WAY OF BLIND PERSON.

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

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

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

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

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

371.03 CROSSING ROADWAY OUTSIDE CROSSWALK; DIAGONAL CROSSINGS AT INTERSECTIONS.

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

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

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

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

- (g) (1) Except as otherwise provided in this subsection, whoever violates any provision of subsections (a) to (d) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the third degree.
- (2) Whoever violates subsection (e) or (f) of this section is guilty of a minor misdemeanor. (ORC 4511.51)

371.07 RIGHT OF WAY ON SIDEWALK.

- (a) The driver of a vehicle shall yield the right of way to any pedestrian on a sidewalk.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.441)

371.08 YIELDING TO PUBLIC SAFETY VEHICLE.

(a) Upon the immediate approach of a public safety vehicle as stated in Section 331.21, every pedestrian shall yield the right of way to the public safety vehicle.

(b) This section shall not relieve the driver of a public safety vehicle from the duty to exercise due care to avoid colliding with any pedestrian.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.452)

371.09 WALKING ON HIGHWAY WHILE UNDER THE INFLUENCE.

(a) A pedestrian who is under the influence of alcohol, any drug of abuse, or any combination of them, to a degree that renders the pedestrian a hazard shall not walk or be upon a highway.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.481)

371.10 ON BRIDGES OR RAILROAD CROSSINGS.

(a) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.

(b) No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while the gate or barrier is closed or is being opened or closed.

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

(ORC 4511.511)

371.11 PERSONS OPERATING MOTORIZED WHEELCHAIRS.

(a) Every person operating a motorized wheelchair shall have all of the rights and duties applicable to a pedestrian that are contained in this Traffic Code, except those provisions which by their nature can have no application.

(ORC 4511.491)

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

(ORC 4511.99)

371.12 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES.

(a) (1) Electric personal assistive mobility devices may be operated on the public streets, highways, sidewalks, and paths and portions of roadways set aside for the exclusive use of bicycles in accordance with this section.

(2) Except as otherwise provided in this section, those sections of this Traffic Code that by their nature are applicable to an electric personal assistive mobility device apply to the device and the person operating it whenever it is operated upon any public street, highway, sidewalk, or path or upon any portion of a roadway set aside for the exclusive use of bicycles.

(b) No operator of an electric personal assistive mobility device shall do any of the following:

(1) Fail to yield the right-of-way to all pedestrians and human-powered vehicles at all times;

(2) Fail to give an audible signal before overtaking and passing a pedestrian;

(3) Operate the device at night unless the device or its operator is equipped with or wearing both of the following:

A. A lamp pointing to the front that emits a white light visible from a distance of not less than five hundred feet;

CHAPTER 373
Bicycles and Motorcycles

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| <p>373.01 Code application to bicycles.</p> <p>373.02 Riding upon seats; handle bars; helmets and glasses.</p> <p>373.03 Attaching bicycle or sled to vehicle.</p> <p>373.04 Riding bicycles and motorcycles abreast.</p> <p>373.05 Signal device on bicycle.</p> <p>373.06 Lights and reflector on bicycle; brakes.</p> | <p>373.07 Riding bicycle on right side of roadway; obedience to traffic rules; passing.</p> <p>373.08 Reckless operation; control, course and speed.</p> <p>373.09 Parking of bicycle.</p> <p>373.10 Motorized bicycle operation, equipment and license.</p> <p>373.11 Paths exclusively for bicycles.</p> <p>373.12 Electric bicycles.</p> |
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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 Transportation-approved protective helmet on the person's head, and no other person shall be a passenger on a motorcycle operated by such a person unless similarly wearing a protective helmet. The helmet, safety glasses or other protective eye device shall conform with rules adopted by the Ohio Director of Public Safety. The provisions of this subsection or a violation thereof shall not be used in the trial of any civil action.
- (2) Subsection (h)(1) of this section does not apply to a person operating an autocycle or cab-enclosed motorcycle when the occupant compartment top is in place enclosing the occupants.
- (i) (1) No person shall operate a motorcycle with a valid temporary permit and temporary instruction permit identification card issued by the Ohio Registrar of Motor Vehicles pursuant to Ohio R.C. 4507.05 unless the person, at the time of such operation, is wearing on the person's head a protective helmet that has been approved by the United States Department of Transportation that conforms with rules adopted by the Director.
- (2) No person shall operate a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar pursuant to Ohio R.C. 4507.05 in any of the following circumstances:
- A. At any time when lighted lights are required by Section 337.02(a)(1);
 - B. While carrying a passenger;
 - C. On any limited access highway or heavily congested roadway.
- (j) Nothing in this section shall be construed as prohibiting the carrying of a child in a seat or trailer that is designed for carrying children and is firmly attached to the bicycle or electric bicycle.
- (k) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.53)

373.03 ATTACHING BICYCLE OR SLED TO VEHICLE.

- (a) No person riding upon any motorcycle, bicycle, electric bicycle, coaster, roller skates, sled, skateboard or toy vehicle shall attach the same or self to any vehicle upon a roadway. No operator shall knowingly permit any person riding upon any motorcycle, bicycle, electric bicycle, coaster, roller skates, sled, skateboard or toy vehicle to attach the same or self to any vehicle while it is moving upon a roadway. This section does not apply to the towing of a disabled vehicle.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.54)

373.04 RIDING BICYCLES AND MOTORCYCLES ABREAST.

(a) Persons riding bicycles, electric bicycles, or motorcycles upon a roadway shall ride not more than two abreast in a single lane, except on paths or parts of roadways set aside for the exclusive use of bicycles, electric bicycles, or motorcycles.

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

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

373.05 SIGNAL DEVICE ON BICYCLE.

(a) A bicycle or electric bicycle may be equipped with a device capable of giving an audible signal, except that a bicycle or electric bicycle shall not be equipped with nor shall any person use upon a bicycle or electric bicycle any siren or whistle.

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

373.06 LIGHTS AND REFLECTOR ON BICYCLE; BRAKES.

(a) Every bicycle or electric bicycle when in use at the times specified in Section 337.02, shall be equipped with the following:

- (1) A lamp mounted on the front of either the bicycle or electric bicycle or the operator that shall emit a white light visible from a distance of at least five hundred feet to the front; and three hundred feet to the sides. A generator-powered lamp that emits light only when the bicycle or electric bicycle is moving may be used to meet this requirement.
- (2) A red reflector on the rear that shall be visible from all distances from one hundred feet to six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.

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

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

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

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

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

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

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

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

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

373.08 RECKLESS OPERATION; CONTROL, COURSE AND SPEED.

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

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

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

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

373.09 PARKING OF BICYCLE.

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

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

373.10 MOTORIZED BICYCLE OPERATION, EQUIPMENT AND LICENSE.

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

- (1) The person is fourteen or fifteen years of age and holds a valid probationary motorized bicycle license issued after the person has passed the test provided for in Ohio R.C. 4511.521, or the person is sixteen years of age or older and holds either a valid commercial driver's license issued under Ohio R.C. Chapter 4506, or a driver's license issued under Ohio R.C. Chapter 4507, or a valid motorized bicycle license issued after the person has passed the test provided for in Ohio R.C. 4511.521, except that if a person is sixteen years of age, has a valid probationary motorized bicycle license and desires a motorized bicycle license, the person is not required to comply with the testing requirements provided for in Ohio R.C. 4511.521;
- (2) The motorized bicycle is equipped in accordance with rules adopted by the Ohio Director of Public Safety and is in proper working order;
- (3) The person, if under eighteen years of age, is wearing a protective helmet on the person's head with the chin strap properly fastened, and the motorized bicycle is equipped with a rear-view mirror;
- (4) The person operates the motorized bicycle when practicable within three feet of the right edge of the roadway obeying all traffic rules applicable to vehicles; and
- (5) The motorized bicycle displays on the rear of such bicycle the current license plate or validation sticker furnished by the Ohio Director of Public Safety under Ohio R.C. 4503.191.

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

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

373.11 PATHS EXCLUSIVELY FOR BICYCLES.

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

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

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

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

373.12 ELECTRIC BICYCLES.

- (a) (1) The operation of a class 1 electric bicycle and a class 2 electric bicycle is permitted on a path set aside for the exclusive use of bicycles or on a shared-use path, unless the Municipality by resolution, ordinance, or rule prohibits the use of a class 1 electric bicycle or class 2 electric bicycle on such a path.
- (2) No person shall operate a class 3 electric bicycle on a path set aside for the exclusive use of bicycles or a shared-use path unless that path is within or adjacent to a highway or the Municipality by resolution, ordinance, or rule authorizes the use of a class 3 electric bicycle on such a path.
- (3) No person shall operate a class 1 electric bicycle, a class 2 electric bicycle or a class 3 electric bicycle on a path that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use, unless the Municipality by resolution, ordinance or rule authorizes the use of a class 1 electric bicycle, a class 2 electric bicycle, or a class 3 electric bicycle on such a path.
- (b) (1) No person under sixteen years of age shall operate a class 3 electric bicycle; however, a person under sixteen years of age may ride as a passenger on a class 3 electric bicycle that is designed to accommodate passengers.

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

CHAPTER 509
Disorderly Conduct and Peace Disturbance

| | | | |
|----------------|--|---------------|---|
| 509.01 | Riot. | 509.05 | Misconduct at an emergency. |
| 509.011 | Inciting to violence. | 509.06 | Inducing panic. |
| 509.02 | Failure to disperse. | 509.07 | Making false alarms. |
| 509.03 | Disorderly conduct; intoxication. | 509.08 | Begging. (Repealed) |
| 509.04 | Disturbing a lawful meeting. | 509.09 | Radio and television reception interference. |
| | | 509.99 | Penalty. |

CROSS REFERENCES

See sectional histories for similar State law
 Use of force to suppress riot - see Ohio R.C. 2917.05
 Cordoning off riot areas, prohibiting sales of firearms
 and explosives - see Ohio R.C. 3761.16
 Emergency suspension of permits and sales by Director of
 Liquor Control - see Ohio R.C. 4301.251
 Criminal trespass - see GEN. OFF. 541.05

509.01 RIOT.

(a) No person shall participate with four or more others in a course of disorderly conduct in violation of Section 509.03:

- (1) With purpose to commit or facilitate the commission of a misdemeanor, other than disorderly conduct;
- (2) With purpose to intimidate a public official or employee into taking or refraining from official action, or with purpose to hinder, impede or obstruct a function of government;
- (3) With purpose to hinder, impede or obstruct the orderly process of administration or instruction at an educational institution, or to interfere with or disrupt lawful activities carried on at such institution.

(b) No person shall participate with four or more others with purpose to do an act with unlawful force or violence, even though such act might otherwise be lawful.

(c) Whoever violates this section is guilty of riot, a misdemeanor of the first degree. (ORC 2917.03)

509.011 INCITING TO VIOLENCE.

(a) No person shall knowingly engage in conduct designed to urge or incite another to commit any offense of violence, when either of the following apply:

- (1) The conduct takes place under circumstances that create a clear and present danger that any offense of violence will be committed;
- (2) The conduct proximately results in the commission of any offense of violence.

(b) Whoever violates this section is guilty of inciting to violence. If the offense of violence that the other person is being urged or incited to commit is a misdemeanor, inciting to violence is a misdemeanor of the first degree. (ORC 2917.01)

509.02 FAILURE TO DISPERSE.

(a) Where five or more persons are participating in a course of disorderly conduct in violation of Section 509.03, and there are other persons in the vicinity whose presence creates the likelihood of physical harm to persons or property or of serious public inconvenience, annoyance or alarm, a law enforcement officer or other public official may order the participants and such other persons to disperse. No person shall knowingly fail to obey such order.

(b) Nothing in this section requires persons to disperse who are peaceably assembled for a lawful purpose.

- (c)
- (1) Whoever violates this section is guilty of failure to disperse.
 - (2) Except as otherwise provided in subsection (c)(3) hereof, failure to disperse is a minor misdemeanor.
 - (3) Failure to disperse is a misdemeanor of the fourth degree if the failure to obey the order described in subsection (a) hereof, creates the likelihood of physical harm to persons or is committed at the scene of a fire, accident, disaster, riot, or emergency of any kind. (ORC 2917.04)

509.03 DISORDERLY CONDUCT; INTOXICATION.

(a) No person shall recklessly cause inconvenience, annoyance or alarm to another by doing any of the following:

- (1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;
- (2) Making unreasonable noise or offensively coarse utterance, gesture or display, or communicating unwarranted and grossly abusive language to any person, which by its very utterance or usage inflicts injury or tends to incite an immediate breach of the peace;
- (3) Insulting, taunting or challenging another, under circumstances in which 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 which serves no lawful and reasonable purpose of the offender;
- (5) Creating a condition which is physically offensive to persons or which presents a risk of physical harm to persons or property, by any act which 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 he were not intoxicated, should know is likely to have such effect on others;
 - (2) Engage in conduct or create a condition which presents a risk of physical harm to himself or another, or to the property of another.

(c) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft or other vehicle while under the influence of alcohol or any drug of abuse, is not a violation of subsection (b) hereof.

(d) If a person appears to an ordinary observer to be intoxicated, it is probable cause to believe that person is voluntarily intoxicated for purposes of subsection (b) hereof.

- (e) (1) Whoever violates this section is guilty of disorderly conduct.
(2) Except as otherwise provided in subsections (e)(3) and (e)(4), disorderly conduct is a minor misdemeanor.
(3) Disorderly conduct is a misdemeanor of the fourth degree if any of the following applies:
A. The offender persists in disorderly conduct after reasonable warning or request to desist.
B. The offense is committed in the vicinity of a school or in a school safety zone.
C. The offense is committed in the presence of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person who is engaged in the person's duties at the scene of a fire, accident, disaster, riot or emergency of any kind.
D. The offense is committed in the presence of any emergency facility person who is engaged in the person's duties in an emergency facility.
(4) If an offender previously has been convicted of or pleaded guilty to three or more violations of subsection (b) of this section, a violation of subsection (b) of this section is a misdemeanor of the fourth degree.
- (f) As used in this section:
(1) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
(2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
(3) "Emergency facility" has the same meaning as in Ohio R.C. 2909.04.
(4) "Committed in the vicinity of a school" has the same meaning as in Ohio R.C. 2925.01. (ORC 2917.11)

509.04 DISTURBING A LAWFUL MEETING.

(a) No person, with purpose to prevent or disrupt a lawful meeting, procession or gathering, shall do either of the following:

- (1) Do any act which obstructs or interferes with the due conduct of such meeting, procession or gathering;
- (2) Make any utterance, gesture or display which outrages the sensibilities of the group.

(b) Whoever violates this section is guilty of disturbing a lawful meeting, a misdemeanor of the fourth degree. (ORC 2917.12)

509.05 MISCONDUCT AT AN EMERGENCY.

- (a) No person shall knowingly do any of the following:
- (1) Hamper the lawful operations of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person, engaged in the person's duties at the scene of a fire, accident, disaster, riot, or emergency of any kind;
 - (2) Hamper the lawful activities of any emergency facility person who is engaged in the person's duties in an emergency facility;
 - (3) Fail to obey the lawful order of any law enforcement officer engaged in the law enforcement officer's duties at the scene of or in connection with a fire, accident, disaster, riot, or emergency of any kind.
- (b) Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of the news media representative's duties.
- (c) Whoever violates this section is guilty of misconduct at an emergency. Except as otherwise provided in this subsection, misconduct at an emergency is a misdemeanor of the fourth degree. If a violation of this section creates a risk of physical harm to persons or property, misconduct at an emergency is a misdemeanor of the first degree.
- (d) As used in this section:
- (1) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
 - (2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
 - (3) "Emergency facility" has the same meaning as in Ohio R.C. 2909.04. (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.
- (5) "Emergency medical services personnel" has the same meaning as in Ohio R.C. 2133.21.
- (6) "Institution of higher education" means any of the following:
- A. A state university or college as defined in Ohio R.C. 3345.12(A)(1), community college, state community college, university branch, or technical college;

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

509.07 MAKING FALSE ALARMS.

- (a) No person shall do any of the following:
 - (1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;
 - (2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;
 - (3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.
- (b) This section does not apply to any person conducting an authorized fire or emergency drill.
- (c) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. If a violation of this section results in economic harm of one thousand dollars (\$1,000) or more, or if a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony and shall be prosecuted under appropriate State law.
- (d) Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.
- (e) As used in this section, "economic harm" and "weapon of mass destruction" have the same meanings as in Section 509.06. (ORC 2917.32)

509.08 BEGGING. (REPEALED)

EDITOR'S NOTE: Former Section 509.08 was repealed by Ordinance 59-2018.

509.09 RADIO AND TELEVISION RECEPTION INTERFERENCE.

- (a) No person, firm or corporation shall use or cause to be used, maintain and operate or cause to be maintained and operated, any device, appliance, equipment or apparatus in such a manner as to cause electro-static or electro-magnetic waves or high frequency oscillations or radiations which interfere with radio or television broadcast receiving apparatus, or wireless receiving apparatus, except that a person duly licensed to practice medicine, osteopathy, dentistry or any limited branch or branches of medicine or surgery, duly licensed by the State, in the course

CHAPTER 513
Drug Abuse Control

- | | | | |
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| 513.01 | Definitions. | 513.10 | Hypodermic possession, display and dispensing. |
| 513.02 | Gift of marihuana. | 513.11 | Harmful intoxicants; possessing nitrous oxide in motor vehicle. |
| 513.03 | Drug abuse; controlled substance possession or use. | 513.12 | Drug paraphernalia. |
| 513.04 | Possessing drug abuse instruments. | 513.121 | Marihuana drug paraphernalia. |
| 513.05 | Permitting drug abuse. | 513.13 | Counterfeit controlled substances. |
| 513.06 | Illegal cultivation of marihuana. | 513.14 | Offender may be required to pay for controlled substance tests. |
| 513.07 | Possessing or using harmful intoxicants. | 513.15 | Medical marijuana. |
| 513.08 | Illegally dispensing drug samples. | 513.99 | Penalty. |
| 513.09 | Controlled substance or prescription labels. | | |

CROSS REFERENCES

See sectional histories for similar State law
 Federal prosecution bar to local prosecution - see Ohio R.C. 2925.50, 3719.19
 Analysis report and notarized statement as evidence - see Ohio R.C 2925.51
 Criteria for granting probation - see Ohio R.C 3719.70(B)
 Adulterating food with drug of abuse - see GEN. OFF. 537.13
 Using weapons while under the influence - see GEN. OFF. 549.03.

513.01 DEFINITIONS.

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

- (a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means to a person or an animal.
(ORC 3719.01)
- (b) "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 (b)(2), (5) or (6) hereof, whichever of the following is applicable:
 - A. An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;

- B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;
 - C. An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol, or lysergic acid amide, or a Schedule I stimulant or depressant;
 - D. An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;
 - E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;
 - F. An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the Federal Drug Abuse Control laws as defined in Ohio R.C. 3719.01, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
 - G. An amount equal to or exceeding three grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act and the Federal Drug Abuse Control laws;
- (2) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
 - (3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;
 - (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance.
 - (5) An amount equal to or exceeding 200 solid dosage units, sixteen grams or sixteen milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid.

- (6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound, or 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 divisions (C)(10)(b) and (C)(11) of that section 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 subsection (b)(1), (2), (3), (4) or (5) of this section for the other schedule III, IV or V controlled substance that is combined with the fentanyl-related compound. (ORC 2925.01)
- (c) "Controlled substance" means a drug, compound, mixture, preparation or substance included in Schedule I, II, III, IV, or V.
- (d) "Controlled substance analog" has the same meaning as provided in Ohio R.C. 3719.01.
- (e) "Counterfeit controlled substance" means:
- (1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to that trademark, trade name or identifying mark; or
 - (2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it; or
 - (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance; or
 - (4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its marking, labeling, packaging, distribution or the price for which it is sold or offered for sale.
- (f) "Cultivate" includes planting, watering, fertilizing or tilling. (ORC 2925.01)
- (g) "Dangerous drug" means any of the following:
- (1) Any drug to which either of the following applies:
 - A. Under the "Federal Food, Drug, and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;
 - B. Under Ohio R.C. Chapter 3715 or 3719, the drug may be dispensed only upon a prescription.
 - (2) Any drug that contains a Schedule V controlled substance and that is exempt from Ohio R.C. Chapter 3719 or to which that chapter does not apply;
 - (3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body. (ORC 4729.01)
- (h) "Deception" has the same meaning as in Ohio R.C. 2913.01. (ORC 2925.01)
- (i) "Dispense" means sell, leave with, give away, dispose of or deliver.
- (j) "Distribute" means to deal in, ship, transport or deliver but does not include administering or dispensing a drug. (ORC 3719.01)

- (k) "Drug" means:
- (1) Any article recognized in the United States pharmacopoeia and national formulary, or any supplement to them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;
 - (2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;
 - (3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals;
 - (4) Any article intended for use as a component of any article specified in subsections (k)(1), (2) or (3) of this section; but does not include devices or their components, parts or accessories.
(ORC 4729.01)
- (l) "Drug of abuse" means any controlled substance as defined in subsection (c) hereof, any harmful intoxicant as defined in subsection (o) hereof and any dangerous drug as defined in subsection (g) hereof.
(ORC 3719.011)
- (m) "Drug abuse offense" means any of the following:
- (1) A violation of Ohio R.C. 2925.02, 2925.03, 2925.04 to 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37; or a violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs;
 - (2) A violation of an existing or former law of this or any other state or of the United States, that is substantially equivalent to any section listed in subsection (m)(1) hereof;
 - (3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element;
 - (4) A conspiracy or attempt to commit, or complicity in committing or attempting to commit any offense under subsection (m)(1), (2) or (3) hereof.
- (n) "Felony drug abuse offense" means any drug abuse offense that would constitute a felony under the laws of this State, any other state or the United States.
- (n)(1) "Fentanyl-related compound" means any of the following:
- (1) Fentanyl;
 - (2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
 - (3) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-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]-N-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.
- (o) "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.
- (p) "Hashish" means the resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.
- (q) "Hypodermic" means a hypodermic syringe or needle, or other instrument or device for the injection of medication. (ORC 3719.01)
- (r) "Juvenile" means a person under eighteen years of age.
- (s) (Former Ohio R.C. 2925.01(JJ) from which Section 513.01(s) was derived was repealed by Senate Bill 229, effective March 22, 2019.)

- (t) "Licensed health professional authorized to prescribe drugs", "prescriber" and "prescription" have the same meanings as in Ohio R.C. 4729.01.
- (u) "Manufacture" means to plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production. (ORC 2925.01)
- (v) "Manufacturer" means a person who manufactures a controlled substance as "manufacture" is defined in Ohio R.C. 3715.01 and includes a manufacturer of dangerous drugs as defined in Ohio R.C. 4929.01.
- (w) Except as provided in subsection (w)(2) hereof:
 - (1) "Marihuana" means all parts of a plant of the genus cannabis, whether growing or not, the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture or preparation of a plant of that type or of its seeds or resin. "Marihuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. (ORC 3719.01)
 - (2) "Marihuana" does not include hashish. (ORC 2925.01)
- (x) "Methamphetamine" means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine. (ORC 2925.01)
- (y) "Official written order" means an order written on a form provided for that purpose by the Director of the United States Drug Enforcement Administration, under any laws of the United States making provision for the order, if the order forms are authorized and required by Federal law. (ORC 3719.01)
- (z) Offense.
 - (1) An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within one thousand feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within one thousand feet of the boundaries of any school premises. (ORC 2925.01)
 - (2) An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within one hundred feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within one hundred feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.
- (aa) "Pharmacist" means a person licensed under Ohio R.C. Chapter 4729 to engage in the practice of pharmacy.
- (bb) "Pharmacy" has the same meaning as in Ohio R.C. 4729.01.
- (cc) "Poison" means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less. (ORC 3719.01)
- (dd) "Possess" or "possession" means having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

- (ee) "Public premises" means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.
(ORC 2925.01)
- (ff) "Sale" includes delivery, barter, exchange, transfer or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant or employee. (ORC 3719.01)
- (gg) "Sample drug" means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.
(ORC 2925.01)
- (hh) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" and "Schedule V" mean controlled substance Schedules I, II, III, IV, and V respectively, established pursuant to Ohio R.C. 3719.41, as amended pursuant to Ohio R.C. 3719.43 or 3719.44. (ORC 3719.01)
- (ii) "School" means any school operated by a board of education, any community school established under Ohio R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.
- (jj) "School building" means any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.
- (kk) "School premises" means either of the following:
- (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the premises at the time a criminal offense is committed;
 - (2) Any other parcel of real property that is owned or leased by a board of education of a school, 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.
- (ll) "Standard pharmaceutical reference manual" means the current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.
- (mm) "Unit dose" means an amount or unit of a compound, mixture or preparation containing a controlled substance, that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.
(ORC 2925.01)
- (nn) "Wholesaler" means a person who, on official written orders other than prescriptions, supplies controlled substances that the person has not manufactured, produced or prepared personally and includes a "wholesale distributor of dangerous drugs" as defined in Ohio R.C. 4729.01.
(ORC 3719.01)

513.02 GIFT OF MARIHUANA.

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

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

(c) The court may by order suspend for not more than five years the driver's or commercial driver's license or permit of any person who is convicted of or pleads guilty to any violation of this section. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit in accordance with Ohio R.C. 2925.03(G). If an offender's driver's or commercial driver's license or permit is suspended pursuant to this subsection, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed, may file a motion with the sentencing court requesting termination of the suspension; upon the filing of such a motion and the court's finding of good cause for the termination, the court may terminate the suspension.
(ORC 2925.03)

513.03 DRUG ABUSE; CONTROLLED SUBSTANCE POSSESSION OR USE.

(a) No person shall knowingly obtain, possess or use a controlled substance or a controlled substance analog.

- (b) (1) This section does not apply to the following:
- 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:
- 1. "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;
- (2) The name of the patient for whom the controlled substance is prescribed and, if the patient is an animal, the name of the owner and the species of the animal;
- (3) The name of the prescriber;
- (4) All directions for use stated on the prescription or provided by the prescriber;

- (5) The date on which the controlled substance was dispensed or supplied;
- (6) The name, quantity and strength of the controlled substance and, if applicable, the name of the distributor or manufacturer.

(c) The requirements of subsection (b) of this section do not apply when a controlled substance is prescribed or supplied for administration to an ultimate user who is institutionalized.

(d) A licensed health professional authorized to prescribe drugs who personally furnishes a controlled substance to a patient shall comply with division (A) of ORC 4729.291 with respect to labeling and packaging of the controlled substance.

(e) No person shall alter, deface, or remove any label affixed pursuant to this section as long as any of the original contents remain.

(f) Every label for a schedule II, III or IV controlled substance shall contain the following warning:

“Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed”. (ORC 3719.08)

(g) Whoever violates this section is guilty of a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.07 or 3719.08 or a drug abuse offense, such violation is a felony and shall be prosecuted under appropriate State law. (ORC 3719.99)

513.10 HYPODERMIC POSSESSION, DISPLAY AND DISPENSING.

(a) Possession of a hypodermic is authorized for the following:

- (1) A manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, and any authorized agent or employee of that manufacturer, distributor or dealer, in the regular course of business;
- (2) Terminal distributor of dangerous drugs, in the regular course of business;
- (3) A person authorized to administer injections, in the regular course of the person's profession or employment;
- (4) A person, when the hypodermic was lawfully obtained and is kept and used for the purpose of self-administration of insulin or other drug prescribed for the treatment of disease by a licensed health professional authorized to prescribe drugs;
- (5) A person whose use of a hypodermic is for legal research, clinical, educational or medicinal purposes;
- (6) A farmer, for the lawful administration of a drug to an animal;
- (7) A person whose use of a hypodermic is for lawful professional, mechanical, trade or craft purposes.

(b) No manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, or their authorized agents or employees, and no terminal distributor of dangerous drugs, shall display any hypodermic for sale. No person authorized to possess a hypodermic pursuant to division (a) of this section shall negligently fail to take reasonable precautions to prevent any hypodermic in the person's possession from theft or acquisition by any unauthorized person. (ORC 3719.172)

(c) Whoever violates this section is guilty of a misdemeanor of the third degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.05, 3719.06, 3719.13, 3719.172(B) or (E), or 3719.31 or a drug abuse offense, a violation is a misdemeanor of the first degree. (ORC 3719.99)

**513.11 HARMFUL INTOXICANTS; POSSESSING NITROUS OXIDE
IN MOTOR VEHICLE.**

(a) As used in this section, "motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.

(b) Unless authorized under Ohio R.C. Chapter 3719, 4715, 4729, 4731, 4741 or 4765, no person shall possess an open cartridge of nitrous oxide in either of the following circumstances:

- (1) While operating or being a passenger in or on a motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking;
- (2) While being in or on a stationary motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking.

(c) Whoever violates this section is guilty of possessing nitrous oxide in a motor vehicle, a misdemeanor of the fourth degree.

(d) In addition to any other sanction imposed upon an offender for possessing nitrous oxide in a motor vehicle, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. (ORC 2925.33)

513.12 DRUG PARAPHERNALIA.

(a) As used in this section, "drug paraphernalia" means any equipment, product or material of any kind that is used by the offender, intended by the offender for use or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance in violation of this chapter or Ohio R.C. Chapter 2925. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products or materials that are used by the offender, intended by the offender for use or designated by the offender for use, in any of the following manners:

- (1) A kit for propagating, cultivating, growing or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;
- (2) A kit for manufacturing, compounding, converting, producing, processing or preparing a controlled substance;
- (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine;
- (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;
- (5) Testing equipment for identifying, or analyzing the strength, effectiveness or purity of, a controlled substance;
- (6) A scale or balance for weighing or measuring a controlled substance;
- (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, for cutting a controlled substance;
- (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marijuana;
- (9) A blender, bowl, container, spoon or mixing device for compounding a controlled substance;
- (10) A capsule, balloon, envelope or container for packaging small quantities of a controlled substance;
- (11) A container or device for storing or concealing a controlled substance;

- (12) A hypodermic syringe, needle or instrument for parenterally injecting a controlled substance into the human body;
- (13) An object, instrument or device for ingesting, inhaling or otherwise introducing into the human body, marihuana, cocaine, hashish or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic or ceramic pipe, with or without a screen, permanent screen, hashish head or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.

(b) In determining if any equipment, product or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:

- (1) Any statement by the owner, or by anyone in control, of the equipment, product or material, concerning its use;
- (2) The proximity in time or space of the equipment, product or material, or of the act relating to the equipment, product or material, to a violation of any provision of this chapter or Ohio R.C. Chapter 2925;
- (3) The proximity of the equipment, product or material to any controlled substance;
- (4) The existence of any residue of a controlled substance on the equipment, product or material;
- (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product or material, to deliver it to any person whom the owner or person in control of the equipment, product or material knows intends to use the object to facilitate a violation of any provision of this chapter or Ohio R.C. Chapter 2925. A finding that the owner, or anyone in control, of the equipment, product or material, is not guilty of a violation of any other provision of this chapter or Ohio R.C. Chapter 2925, does not prevent a finding that the equipment, product or material was intended or designed by the offender for use as drug paraphernalia;
- (6) Any oral or written instruction provided with the equipment, product or material concerning its use;
- (7) Any descriptive material accompanying the equipment, product or material and explaining or depicting its use;
- (8) National or local advertising concerning the use of the equipment, product or material;
- (9) The manner and circumstances in which the equipment, product or material is displayed for sale;
- (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product or material to the total sales of the business enterprise;
- (11) The existence and scope of legitimate uses of the equipment, product or material in the community;
- (12) Expert testimony concerning the use of the equipment, product or material.

- (c)
 - (1) Subject to subsection (d)(2) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.
 - (2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product or material will be used as drug paraphernalia.

- (3) No person shall place an advertisement in any newspaper, magazine, handbill or other publication that is published and printed and circulates primarily within this State, if the person knows that the purpose of the advertisement is to promote the illegal sale in the State of the equipment, product or material that the offender intended or designed for use as drug paraphernalia.
- (d) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.
- (2) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.
- (e) Notwithstanding Ohio R.C. Chapter 2981, any drug paraphernalia that was used, possessed, sold or manufactured in violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to Ohio R.C. 2981.12.
- (f) (1) Whoever violates subsection (c)(1) hereof is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.
- (2) Except as provided in subsection (f)(3) hereof, whoever violates subsection (c)(2) hereof is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.
- (3) Whoever violates subsection (c)(2) hereof by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.
- (4) Whoever violates subsection (c)(3) hereof is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.
- (g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38. (ORC 2925.14)

513.121 MARIHUANA DRUG PARAPHERNALIA.

- (a) As used in this section, "drug paraphernalia" has the same meaning as in Section 513.12.
- (b) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, all factors identified in subsection (b) of Section 513.12.

(c) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.

(d) This section does not apply to any person identified in subsection (d)(1) of Section 513.12 and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10:

(e) Subsection (e) of Section 513.12 applies with respect to any drug paraphernalia that was used or possessed in violation of this section.

(f) Whoever violates subsection (c) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor.

(g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38. (ORC 2925.141)

513.13 COUNTERFEIT CONTROLLED SUBSTANCES.

(a) No person shall knowingly possess any counterfeit controlled substance.

(b) Whoever violates this section is guilty of possession of counterfeit controlled substances, a misdemeanor of the first degree. (ORC 2925.37)

(c) The court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.37)

513.14 OFFENDER MAY BE REQUIRED TO PAY FOR CONTROLLED SUBSTANCE TESTS.

In addition to the financial sanctions authorized or required under Ohio R.C. 2929.18 and 2929.28 and to any costs otherwise authorized or required under any provision of law, the court imposing sentence upon an offender who is convicted of or pleads guilty to a drug abuse offense may order the offender to pay to the state, municipal, or county law enforcement agencies that handled the investigation and prosecution all of the costs that the state, municipal corporation, or county reasonably incurred in having tests performed under Ohio R.C. 2925.51, or in any other manner on any substance that was the basis of, or involved in, the offense to determine whether the substance contained any amount of a controlled substance if the results of the tests indicate that the substance tested contained any controlled substance. No court shall order an offender under this section to pay the costs of tests performed on a substance if the results of the tests do not indicate that the substance tested contained any controlled substance.

The court shall hold a hearing to determine the amount of costs to be imposed under this section. The court may hold the hearing as part of the sentencing hearing for the offender.
(ORC 2925.511)

513.15 MEDICAL MARIJUANA.

(a) The cultivation, processing, and retail dispensing of marijuana for medical purposes, as defined in Chapter 3796 of the Ohio Revised Code, is hereby specifically prohibited with the City of North Canton.

(b) For the purpose of this section, "medical marijuana" shall have the same meaning as defined in Section 3796.01(A)(2) of the Ohio Revised Code.
(Ord. 2-2018. Passed 1-22-18.)

513.99 PENALTY.

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

- a. It is two and four-tenths miles or more in length.
 - b. It is located on two hundred acres or more of land.
 - c. The primary business of the owner of the facility is the hosting and promoting of racing events.
 - d. The holder of a D-1, D-2 or D-3 permit is located on the property of the facility.
- (7) A. A person may have in the person's possession an opened container of beer or intoxicating liquor at an outdoor location within an outdoor refreshment area created under Ohio R.C. 4301.82, if the opened container of beer or intoxicating liquor was purchased from an A-1, A-1-A, A-1c, A-2, A-2f, D class or F class permit holder to which both of the following apply:
1. The permit holder's premises is located within the outdoor refreshment area.
 2. The permit held by the permit holder has an outdoor refreshment area designation.
- B. Subsection (c)(7) of this section does not authorize a person to do either of the following:
1. Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;
 2. Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, unless the possession is otherwise authorized under subsection (d) or (e) of this section.
- C. As used in subsection (c)(7) of this section, "D class permit holder" does not include a D-6 or D-8 permit holder.
- (8) A. A person may have in the person's possession on the property of a market, within a defined F-8 permit premises, an opened container of beer or intoxicating liquor that was purchased from a D permit premises that is located immediately adjacent to the market if both of the following apply:
1. The market grants permission for the possession and consumption of beer and intoxicating liquor within the defined F-8 permit premises;
 2. The market is hosting an event pursuant to an F-8 permit and the market has notified the Division of Liquor Control about the event in accordance with division (A)(3) of Ohio R.C. 4303.208.
- B. As used in subsection (c)(8) of this section, market means a market, for which an F-8 permit is held, that has been in operation since 1860.

(d) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of such a person, when all of the following apply:

- (1) The person or guest is a passenger in the limousine;
- (2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located;
- (3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

(e) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:

- (1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.
- (2) The opened bottle of wine that is resealed in accordance with subsection (e)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.

(f) (1) Except if an ordinance or resolution is enacted or adopted under subsection (f)(2) of this section, this section does not apply to a person who, pursuant to a prearranged contract, is a passenger riding on a commercial quadricycle when all of the following apply:

- A. The person is not occupying a seat in the front of the commercial quadricycle where the operator is steering or braking.
- B. The commercial quadricycle is being operated on a street, highway or other public or private property open to the public for purposes of vehicular travel or parking.
- C. The person has in their possession on the commercial quadricycle an opened container of beer or wine.
- D. The person has in their possession on the commercial quadricycle not more than either thirty-six ounces of beer or eighteen ounces of wine.

(2) The legislative authority of a municipal corporation or township may enact an ordinance or adopt a resolution, as applicable, that prohibits a passenger riding on a commercial quadricycle from possessing an opened container of beer or wine.

(3) As used in this section, "commercial quadricycle" means a vehicle that has fully-operative pedals for propulsion entirely by human power and that meets all of the following requirements:

- A. It has four wheels and is operated in a manner similar to a bicycle.
- B. It has at least five seats for passengers.
- C. It is designed to be powered by the pedaling of the operator and the passengers.
- D. It is used for commercial purposes.
- E. It is operated by the vehicle owner or an employee of the owner.

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

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

- (1) Leases space in the market to individual vendors, not less than fifty percent of which are retail food establishments or food service operations licensed under Ohio R.C. Chapter 3717;
- (2) Has an indoor sales floor area of not less than twenty-two thousand square feet;
- (3) Hosts a farmer's market on each Saturday from April through December. (ORC 4301.62)

CHAPTER 533
Obscenity and Sex Offenses

| | | | |
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CROSS REFERENCES

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

533.01 DEFINITIONS.

As used in this chapter:

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

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

(b) Whoever violates this section is guilty of unlawful sexual conduct with a minor, a misdemeanor of the first degree. If the offender is four years older or more than the other person, or if the offender has previously been convicted of or pleaded guilty to a violation of Ohio R.C. 2907.02, 2907.03 or 2907.04, or former Ohio R.C. 2907.12, unlawful sexual conduct with a minor is a felony and shall be prosecuted under appropriate State law. (ORC 2907.04)

533.04 SEXUAL IMPOSITION.

(a) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more persons to have sexual contact when any of the following applies:

- (1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.
- (2) The offender knows that the other person's or one of the other person's ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.
- (3) The offender knows that the other person or one of the other persons submits because of being unaware of the sexual contact.
- (4) The other person or one of the other persons is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than such other person.
- (5) The offender is a mental health professional, the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.

(b) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.

(c) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06 or former Section 2907.12, or a substantially similar municipal ordinance, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 2907.02, 2907.03, 2907.04 or 2907.05, 2907.06 or former Section 2907.12 or of any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in Ohio R.C. 2929.24, the court may impose on the offender a definite jail term of not more than one year. (ORC 2907.06)

533.05 IMPORTUNING.

(EDITOR'S NOTE: Former Section 533.05 has been deleted from the Codified Ordinances. Section 533.05 was identical to Ohio R.C. 2907.07(B) which the Ohio Supreme Court held to be unconstitutional in *State v. Thompson*, 95 Ohio St. 3rd 264 (2002).)

533.06 VOYEURISM.

(a) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.

(b) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph, or otherwise record the other person in a state of nudity.

(c) No person shall secretly or surreptitiously videotape, film, photograph, or otherwise record another person under or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person.

- (d) (1) Whoever violates this section is guilty of voyeurism.
(2) A violation of subsection (a) hereof is a misdemeanor of the third degree.
(3) A violation of subsection (b) hereof is a misdemeanor of the second degree.
(4) A violation of subsection (c) hereof is a misdemeanor of the first degree.
(ORC 2907.08)

533.07 PUBLIC INDECENCY.

(a) No person shall recklessly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront others, who are in the person's physical proximity and who are not members of the person's household:

- (1) Expose the person's private parts;
(2) Engage in sexual conduct or masturbation;
(3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation.

(b) No person shall knowingly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is in the person's physical proximity, who is a minor, and who is not the spouse of the offender:

- (1) Engage in masturbation;
(2) Engage in sexual conduct;
(3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation;
(4) Expose the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.

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

convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.

- (4) Except as otherwise provided in subsection (c)(4) of this section, a violation of subsection (b)(1), (2) or (3) of this section is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (b)(1), (2) or (3) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (b)(1), (2) or (3) of this section is a felony and shall be prosecuted under appropriate state law.
- (5) A violation of subsection (b)(4) of this section is a misdemeanor of the first degree unless the offender previously has been convicted of or pleaded guilty to any violation of this section in which case the violation is a felony and shall be prosecuted under appropriate state law.
- (d) (1) If either of the following applies, the court may determine at the time of sentencing whether to classify the offender as a tier I sex offender/child-victim offender for a violation of subsection (b)(4) of this section:
 - A. The offender is less than ten years older than the other person.
 - B. The offender is ten or more years older than the other person and the offender has not previously been convicted of or pleaded guilty to any violation of this section.
- (2) If the offender is convicted of or pleads guilty to a violation of subsection (b)(4) of this section, is ten or more years older than the other person, and previously has been convicted of or pleaded guilty to any violation of this section, the court shall issue an order at the time of sentencing that classifies the offender as a tier I sex offender/child-victim offender subject to registration under Ohio R.C. 2950.04, 2950.041, 2950.05 and 2950.06. (ORC 2907.09)

533.08 PROCURING.

- (a) No person, knowingly and for gain, shall do either of the following:
 - (1) Entice or solicit another to patronize a prostitute or brothel;
 - (2) Procure a prostitute for another to patronize, or take or direct another at his or her request to any place for the purpose of patronizing a prostitute.
- (b) No person, having authority or responsibility over the use of premises, shall knowingly permit such premises to be used for the purpose of engaging in sexual activity for hire.
- (c) Whoever violates this section is guilty of procuring. Except as otherwise provided in this subsection (c), procuring is a misdemeanor of the first degree. If the prostitute who is procured, patronized or otherwise involved in a violation of subsection (a)(2) of this section is under sixteen years of age at the time of the violation, regardless of whether the offender who violates subsection (a)(2) of this section knows the prostitute's age, or if a prostitute who engages in sexual activity for hire in premises used in violation of subsection (b) of this section is under sixteen years of age at the time of the violation, regardless of whether the offender who violates subsection (b) of this section knows the prostitute's age, procuring is a felony and shall be prosecuted under appropriate state law. If the prostitute who is procured, patronized or otherwise involved in a violation of subsection (a)(2) of this section is sixteen or seventeen years of age at

the time of the violation or if a prostitute who engages in sexual activity for hire in premises used in violation of subsection (b) of this section is sixteen or seventeen years of age at the time of the violation, procuring is a felony and shall be prosecuted under appropriate state law. (ORC 2907.23)

533.09 SOLICITING.

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

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

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

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

533.091 LOITERING TO ENGAGE IN SOLICITATION.

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

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

(b) As used in this section:

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

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

533.10 PROSTITUTION.

- (a) No person shall engage in sexual activity for hire.
- (b) Whoever violates this section is guilty of prostitution, a misdemeanor of the third degree. (ORC 2907.25)

533.11 DISSEMINATING MATTER HARMFUL TO JUVENILES.

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

- (1) Directly sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;
- (2) Directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;
- (3) While in the physical proximity of the juvenile or law enforcement officer posing as a juvenile, allow any juvenile or law enforcement officer posing as a juvenile to review or peruse any material or view any live performance that is harmful to juveniles.

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

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

(c) (1) It is an affirmative defense to a charge under this section, involving material or a performance that is obscene or harmful to juveniles, that the material or performance was furnished or presented for a bona fide medical, scientific, educational, governmental, judicial or other proper purpose, by a physician, psychologist, sociologist, scientist, teacher, librarian, clergyman, prosecutor, judge or other proper person.

(2) Except as provided in subsection (b)(3) hereof, mistake of age is not a defense to a charge under this section.

(d) (1) A person directly sells, delivers, furnishes, disseminates, provides, exhibits, rents, or presents or directly offers or agrees to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present material or a performance to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as

juveniles in violation of this section by means of an electronic method of remotely transmitting information if the person knows or has reason to believe that the person receiving the information is a juvenile or the group of persons receiving the information are juveniles.

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

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

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

533.12 DECEPTION TO OBTAIN MATTER HARMFUL TO JUVENILES.

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

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

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

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

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

533.13 DISPLAYING MATTER HARMFUL TO JUVENILES.

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

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

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

533.14 RESIDENTIAL RESTRICTIONS FOR SEXUAL PREDATORS.

(a) No person who has been convicted of, is convicted of, has pleaded guilty to, or pleads guilty to either a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense and has been classified as a sexual predator and/or Tier III sex offender/child victim offender ("Tier III") shall establish a residence or occupy residential premises within two thousand five hundred feet (2,500), of any school premises, preschool, daycare, public park, library, or public pool that is located within the City of North Canton.

(b) If a person to whom subsection (a) hereof applies violates subsection (a) hereof by establishing a residence of or occupying residential premises within two thousand five hundred feet (2,500), of any school premises, preschool, daycare, public park, library, or public pool, that is located within the City of North Canton, the Director of Law has a cause of action for injunctive relief against the person. The City of North Canton shall not be required to prove irreparable harm in order to obtain the relief.

(c) The City of North Canton adopts the provisions of the law of Ohio now or hereafter in effect concerning the definition, determination, registration, or classification of a person who has been convicted of, is convicted of, has plead guilty to, or pleads guilty to either a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child victim oriented offense and has been classified as a sexual predator and/or Tier III.

(d) The City Council of the City of North Canton finds that because children are especially vulnerable to being victims of sexually abusive behavior, kidnapping, and abduction, and are likely to be present a significant amount of time on or near school premises, preschools, daycares, public parks, libraries, and public pools that certain persons who have been convicted of, or have plead guilty to, a sexually oriented offense or child victim oriented offense and classified as a sexual predator and/or Tier III must not establish a residence or occupy residential premises within two thousand five hundred feet (2,500) of any school premises, preschool, daycare, public park, library, or public pool.

(e) The Council of the City of North Canton adopts the determinations and intent of the Ohio General Assembly as articulated in Ohio R.C. Section 2950.02.

(f) The City of North Canton adopts the definitions now and hereafter in effect for school premises, preschool, daycare, public park, library, or public pool as defined by the law of Ohio.

(g) It is hereby declared to be the intention of the Council of the City of North Canton that the subsections, paragraphs, sentences, clauses, and words of this section are severable and if any word, clause, sentence, paragraph, or subsection of this section shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionally or invalidity shall not affect any of the remaining words, clauses, sentences, paragraphs, and subsections of this section, because the same would have been enacted by the Council of the City of North Canton without the incorporation in this section of any such unconstitutional or invalid word, clause, sentence, paragraph, or subsection.
(Ord. 58-10. Passed 7-12-10.)

533.15 UNLAWFUL ADVERTISING OF MASSAGE.

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

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

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

533.16 DISSEMINATION OF PRIVATE SEXUAL IMAGES.

(a) As used in this section:

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

- (8) "Video service provider" has the same meaning as in Ohio R.C. 1332.21.
- (9) "Sexual act" means any of the following:
 - A. Sexual activity;
 - B. Masturbation;
 - C. An act involving a bodily substance that is performed for the purpose of sexual arousal or gratification;
 - D. Sado-masochistic abuse.

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

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

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

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

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

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

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

- (f) (1) A. Except as otherwise provided in subsection (f)(1)B., C., or D. of this section, whoever violates this section is guilty of nonconsensual dissemination of private sexual images, a misdemeanor of the third degree.
- B. If the offender previously has been convicted of or pleaded guilty to a violation of this section, nonconsensual dissemination of private sexual images is a misdemeanor of the second degree.
- C. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, nonconsensual dissemination of private sexual images is a misdemeanor of the first degree.
- D. If the offender is under eighteen years of age and the person in the image is not more than five years older than the offender, the offender shall not be prosecuted under this section.
- (2) In addition to any other penalty or disposition authorized or required by law, the court may order any person who is convicted of a violation of this section or who is adjudicated delinquent by reason of a violation of this section to criminally forfeit all of the following property to the state under Ohio R.C. Chapter 2981.
- A. Any profits or proceeds and any property the person has acquired or maintained in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation;
- B. Any interest in, securities of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise that the person has established, operated, controlled or conducted in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation.

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

533.99 PENALTY.

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

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

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

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

545.08 UNAUTHORIZED USE OF PROPERTY.

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

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

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

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

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

545.09 PASSING BAD CHECKS.

(a) As used in this section:

- (1) "Check" includes any form of debit from a demand deposit account, including, but not limited to any of the following:
 - A. A check, bill of exchange, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument;
 - B. An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.
- (2) "Issue a check" means causing any form of debit from a demand deposit account.

(b) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored or knowing that a person has ordered or will order stop payment on the check or other negotiable instrument.

(c) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored, if either of the following occurs:

- (1) The drawer had no account with the drawee at the time of issue or the stated date, whichever is later.
- (2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within thirty days after issue or the stated date, whichever is later, and the liability of the drawer, indorser or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.

(d) For purposes of this section, a person who issues or transfers a check, bill of exchange or other draft is presumed to have the purpose to defraud if the drawer fails to comply with Ohio R.C. 1349.16 by doing any of the following when opening a checking account intended for personal, family or household purposes at a financial institution:

- (1) Falsely stating that the drawer has not been issued a valid driver's or commercial driver's license or identification card issued under Ohio R.C. 4507.50;
- (2) Furnishing such license or card, or another identification document that contains false information;
- (3) Making a false statement with respect to the drawer's current address or any additional relevant information reasonably required by the financial institution.

(e) In determining the value of the payment for purposes of subsection (f) of this section, the court may aggregate all checks and other negotiable instruments that the offender issued or transferred or caused to be issued or transferred in violation of subsection (a) of this section within a period of one hundred eighty consecutive days.

(f) Whoever violates this section is guilty of passing bad checks. Except as otherwise provided in this subsection, passing bad checks is a misdemeanor of the first degree. If the check or checks or other negotiable instrument or instruments are issued or transferred to a single vendor or single other person for the payment of one thousand dollars (\$1,000) or more or if the check or checks or other negotiable instrument or instruments are issued or transferred to multiple vendors or persons for the payment of one thousand five hundred dollars (\$1,500) or more, passing bad checks is a felony and shall be prosecuted under appropriate State law.
(ORC 2913.11)

545.10 MISUSE OF CREDIT CARDS.

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

- (1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;
- (2) Knowingly buy or sell a credit card from or to a person other than the issuer.
- (3) As an officer, employee, or appointee of a political subdivision or as a public servant as defined under Section 525.01, knowingly misuse a credit card account held by a political subdivision.

(b) No person, with purpose to defraud, shall do any of the following:

- (1) Obtain control over a credit card as security for a debt;
- (2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained or is being used in violation of law;
- (3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;

- (4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.

(c) No person, with purpose to violate this section, shall receive, possess, control or dispose of a credit card.

(d) Whoever violates this section is guilty of misuse of credit cards, a misdemeanor of the first degree. Misuse of credit cards is a felony and shall be prosecuted under appropriate State law if:

- (1) The cumulative retail value of the property and services involved in one or more violations of subsection (b)(2), (3) or (4) hereof, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is one thousand dollars (\$1,000) or more; or
- (2) The victim of the offense is an elderly person or disabled adult and the offense involves a violation of subsection (b)(1) or (2) hereof.
(ORC 2913.21)

545.11 MAKING OR USING SLUGS.

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

- (1) Insert or deposit a slug in a coin machine, with purpose to defraud;
- (2) Make, possess or dispose of a slug, with purpose of enabling another to defraud by inserting or depositing it in a coin machine.

(b) Whoever violates this section is guilty of making or using slugs, a misdemeanor of the second degree. (ORC 2913.33)

545.12 TAMPERING WITH COIN MACHINES.

(a) No person, with purpose to commit theft or to defraud, shall knowingly enter, force an entrance into, tamper with or insert any part of an instrument into any coin machine.

(b) Whoever violates this section is guilty of tampering with coin machines, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of Ohio R.C. 2911.32 or of any theft offense, tampering with coin machines is a felony and shall be prosecuted under appropriate State law. (ORC 2911.32)

545.13 CRIMINAL SIMULATION.

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

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

- (4) Utter, or possess with purpose to utter, any object that the person knows to have been simulated as provided in subsection (a)(1), (2) or (3) of this section.

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

545.14 TAMPERING WITH RECORDS.

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

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

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

545.15 SECURING WRITINGS BY DECEPTION.

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

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

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

545.16 PERSONATING AN OFFICER.

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

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

545.17 DEFRAUDING CREDITORS.

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

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

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

545.18 RECEIVING STOLEN PROPERTY.

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

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

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

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

545.19 POSSESSION OF CRIMINAL TOOLS.

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

- (b) Each of the following constitutes prima-facie evidence of criminal purpose:
- (1) Possession or control of any dangerous ordnance, or the materials or parts for making dangerous ordnance, in the absence of circumstances indicating the dangerous ordnance, materials, or parts are intended for legitimate use;
 - (2) Possession or control of any substance, device, instrument, or article designed or specially adapted for criminal use;
 - (3) Possession or control of any substance, device, instrument, or article commonly used for criminal purposes, under circumstances indicating the item is intended for criminal use.

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

545.20 FORGERY OF IDENTIFICATION CARDS.

- (a) No person shall knowingly do either of the following:
- (1) Forge an identification card;
 - (2) Sell or otherwise distribute a card that purports to be an identification card, knowing it to have been forged.

- (3) As used in this section, "identification card" means a card that includes personal information or characteristics of an individual, a purpose of which is to establish the identity of the bearer described on the card, whether the words "identity," "identification," "identification card" or other similar words appear on the card.

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

545.21 IMPROPER SOLICITATION OF CONTRIBUTIONS FOR MISSING CHILDREN.

(a) No organization shall solicit contributions for the purpose of distributing materials containing information relating to missing children unless it complies with all of the following requirements:

- (1) It has been incorporated under Ohio R.C. Chapter 1702 or the nonprofit corporation law of another state for a period of two years prior to the time of the solicitation of contributions.
- (2) It has been exempt from federal income taxation under subsection 501 (A) and described in subsection 501 (C) (3), 501 (C) (4), 501 (C) (8), 501 (C) (10) or 501 (C) (19) of the Internal Revenue Code of 1954, 68A Stat. 3, 26 U.S.C. 1, as now or hereafter amended, for a period of two years prior to the time of the solicitation of contributions.
- (3) It does not use professional fund raisers or professional solicitors, as these terms are defined in Ohio R.C. 1716.01, to solicit such contributions.

(b) No organization that solicits contributions for the purpose of distributing materials containing information relating to missing children shall expressly state or imply in any way that it is affiliated with, or is soliciting contributions on behalf of, an organization established to assist in the location of missing children without the express written consent of that organization.

(c) Whoever violates subsection (a) or (b) hereof is guilty of improper solicitation of contributions for missing children, a misdemeanor of the third degree. (ORC 2901.32)

545.22 TRAFFICKING IN OR ILLEGAL USE OF FOOD STAMPS.

(a) No organization, as defined in Section 501.11(d) shall:

- (1) Knowingly allow an employee to sell, transfer or trade items or services, the purchase of which is prohibited by the "Food Stamp Act of 1977", 91 Stat. 958, 7 U.S.C. 2011, as amended, in exchange for food stamp coupons.
- (2) Negligently allow an employee to sell, transfer or exchange food stamp coupons for anything of value.

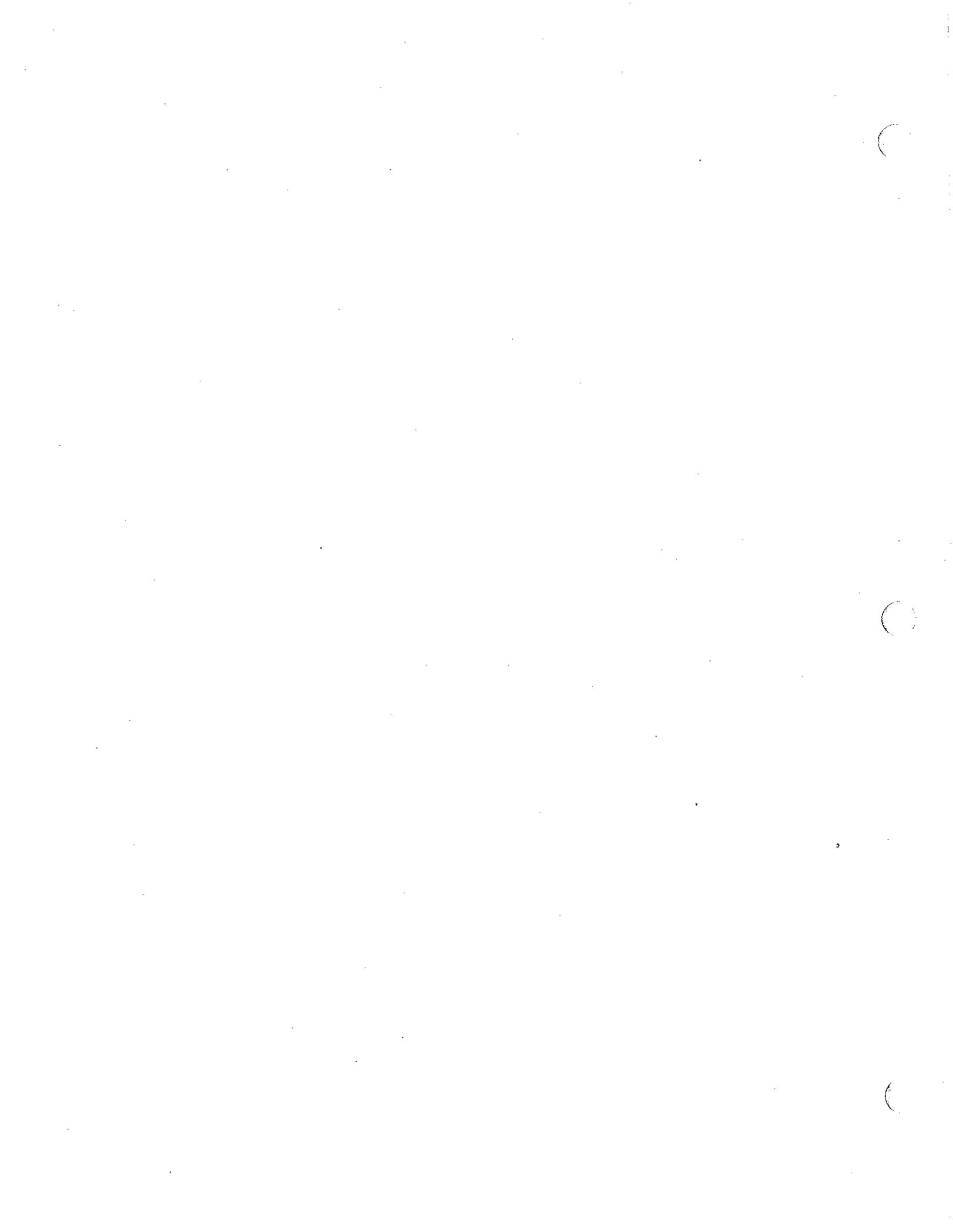
(b) Whoever violates this section is guilty of illegal use of food stamps. If the face value of the food stamp coupons involved in the violation is less than two hundred dollars (\$200.00), or as long as the offender has not previously been convicted of a violation of the "Food Stamp Act", illegal use of food stamps is a misdemeanor of the first degree. (ORC 2913.46)

545.23 IDENTITY FRAUD.

(EDITOR'S NOTE: Former Section 545.23 has been deleted from the Codified Ordinances. Ohio R.C. 2913.49, from which Section 545.23 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

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| 549.01 | Definitions. | 549.07 | Underage purchase of firearm. |
| 549.02 | Carrying concealed weapons. | 549.08 | Discharging firearms. |
| 549.03 | Using weapons while intoxicated. | 549.09 | Throwing or shooting missiles. |
| 549.04 | Improperly handling firearms in a motor vehicle. | 549.10 | Possessing replica firearm in school. |
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| 549.06 | Unlawful transactions in weapons. | 549.99 | Penalty. |

CROSS REFERENCES

See sectional histories for similar State law

License or permit to possess dangerous ordnance - see

Ohio R.C. 2923.18

Hunting prohibited - see GEN. OFF. 505.11

Reporting gunshot and stab wounds - see GEN. OFF. 525.05(b)

Property destruction by tear gas device, etc. - see GEN. OFF. 541.04

549.01 DEFINITIONS.

As used in this chapter:

- (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.
- (b) (1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.
- (2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.
- (c) "Handgun" means any of the following:
 - (1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;
 - (2) Any combination of parts from which a firearm of a type described in subsection (c)(1) of this section can be assembled.
- (d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

- (e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.
- (f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall. "Sawed-off firearm" does not include any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (g) "Zip-gun" means any of the following:
 - (1) Any firearm of crude and extemporized manufacture;
 - (2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
 - (3) Any industrial tool, signalling device or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.
- (h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.
- (i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.
- (j) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.
- (k) "Dangerous ordnance" means any of the following, except as provided in subsection (l) hereof:
 - (1) Any automatic or sawed-off firearm, zip-gun or ballistic knife;
 - (2) Any explosive device or incendiary device;
 - (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, 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 (l)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
 - (5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio or museum piece.
 - (6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(4), as amended, and regulations issued under that Act.
 - (7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (m) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks", as defined in Ohio R.C. 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations, including, but not limited to, the provisions of Ohio R.C. 3743.80, and the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82.
- (n) (1) "Concealed handgun license" or "license to carry a concealed handgun" means, subject to subsection (n)(2) of this section, a license or temporary emergency license to carry a concealed handgun issued under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.

- (2) A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.125 or a license to carry a concealed handgun issued under Ohio R.C. 2923.125 means only a license of the type that is specified in that section. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.1213, a license to carry a concealed handgun issued under Ohio R.C. 2923.1213, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in Ohio R.C. 2923.1213. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.
- (o) "Valid concealed handgun license" or "valid license to carry a concealed handgun" means a concealed handgun license that is currently valid, that is not under a suspension under division (A)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213, or under a suspension provision of the state other than this State in which the license was issued, and that has not been revoked under division (B)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213 or under a revocation provision of the state other than this State in which the license was issued.
- (p) "Misdemeanor punishable by imprisonment for a term exceeding one year" does not include any of the following:
- (1) Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulation of business practices;
 - (2) Any misdemeanor offense punishable by a term of imprisonment of two years or less.
- (q) "Alien registration number" means the number issued by the United States Citizenship and Immigration Services Agency that is located on the alien's permanent resident card and may also be commonly referred to as the "USCIS number" or the "alien number".
- (r) "Active duty" has the same meaning as defined in 10 U.S.C. 101.(ORC 2923.11)

549.02 CARRYING CONCEALED WEAPONS.

- (a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:
- (1) A deadly weapon other than a handgun;
 - (2) A handgun other than a dangerous ordnance;
 - (3) A dangerous ordnance.
- (b) No person who has been issued a concealed handgun license, shall do any of the following:
- (1) If the person is stopped for a law enforcement purpose, and is carrying a concealed handgun, fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person then is carrying a concealed handgun;
 - (2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;

- (3) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.
- (c) (1) This section does not apply to any of the following:
- A. An officer, agent or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance, or is authorized to carry handguns and is acting within the scope of the officer's, agent's or employee's duties;
 - B. Any person who is employed in this State, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801 unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. hereof does not apply to the person.
 - C. A person's transportation or storage of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;
 - D. A person's storage or possession of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in the actor's own home for any lawful purpose.
- (2) Subsection (a)(2) of this section does not apply to any person who, at the time of the alleged carrying or possession of a handgun, either is carrying a valid concealed handgun license or is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, unless the person knowingly is in a place described in division (B) of Ohio R.C. 2923.126.
- (d) It is an affirmative defense to a charge under subsection (a)(1) of this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:
- (1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.
 - (2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.
 - (3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.
- (e) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

- (f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, carrying concealed weapons in violation of subsection (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, if the offender previously has been convicted of a violation of this section or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law. Except as otherwise provided in subsections (f)(2), (5) and (6) of this section, if the weapon involved is a firearm and the violation of this section is committed at premises for which a D permit has been issued under Chapter 4303, of the Revised Code or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law.
- (2) Except as provided in subsection (f)(5) of this section, if a person being arrested for a violation of subsection (a)(2) of this section promptly produces a valid concealed handgun license, and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio R.C. 2923.126, the officer shall not arrest the person for a violation of that subsection. If the person is not able to promptly produce any concealed handgun license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that subsection, and the offender shall be punished as follows:
- A. The offender shall be guilty of a minor misdemeanor if both of the following apply:
1. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.
 2. At the time of the arrest, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- B. The offender shall be guilty of a misdemeanor and shall be fined five hundred dollars (\$500.00) if all of the following apply:
1. The offender previously had been issued a concealed handgun license and that license expired within the two years immediately preceding the arrest.
 2. Within forty-five days after the arrest, the offender presents any type of concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Ohio R.C. 2945.71.
 3. At the time of the commission of the offense, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

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

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

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

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

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

549.06 UNLAWFUL TRANSACTIONS IN WEAPONS.

- (a) No person shall do any of the following:
- (1) Manufacture, possess for sale, sell or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife or similar weapon;
 - (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing the transferee to be authorized to acquire dangerous ordnance pursuant to Ohio R.C. 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;
 - (3) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.

(b) Whoever violates this section is guilty of unlawful transactions in weapons. Violation of subsections (a)(1) or (2) hereof is a misdemeanor of the second degree. Violation of subsection (a)(3) hereof is a misdemeanor of the fourth degree. (ORC 2923.20)

549.07 UNDERAGE PURCHASE OF FIREARM.

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

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

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

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

549.08 DISCHARGING FIREARMS.

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

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

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

549.09 THROWING OR SHOOTING MISSILES.

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

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

549.10 POSSESSING REPLICA FIREARM IN SCHOOL.

(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.

CHAPTER 553
Weeds, Trees and Grass

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| <p>553.01 Obstructions on lawn strips and lawn debris in street gutters.</p> <p>553.02 Declaration of nuisances.</p> <p>553.03 Definitions.</p> <p>553.04 Annual notice by publication.</p> <p>553.05 Notice of violation.</p> | <p>553.06 Manner of notice.</p> <p>553.07 Failure to comply.</p> <p>553.08 Assessment of costs.</p> <p>553.09 Fines.</p> <p>553.10 Appeal.</p> <p>553.99 Penalty.</p> |
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CROSS REFERENCES

Power to regulate shade trees and shrubbery - see Ohio R.C. 715.20

Notice to cut noxious weeds - see Ohio R.C. 731.51 et seq.

Destruction of weeds - see Ohio R.C. 971.33 et seq.

Nuisances - see Ohio R.C. 3767.01 et seq.

Destruction of shrubs, trees or crops - see GEN. OFF. 541.06

553.01 OBSTRUCTIONS ON LAWN STRIPS AND LAWN DEBRIS IN STREET GUTTERS.

(a) No person shall plant, allow to be planted, or upon notification fail to promptly remove any trees, flowers, shrubbery, or other similar obstructions within the limits of any dedicated streets of the City, or upon the portion of any such streets known as the lawn strips, between the sidewalk and roadway.

(b) No person shall place or allow to be placed grass clippings, shrub and tree trimmings, leaves, limbs, or a yard waste of any kind ("lawn debris") on any public street, sidewalk, curb or gutter within the City or to allow lawn debris to sit on private property for such period of time or in such a manner as to cause the lawn debris to gain access by natural means onto public streets, sidewalks, curbs, or gutters within the City, or fail to promptly remove the lawn debris upon notification. (Ord. 59-14. Passed 7-23-14.)

(c) In the interest of public safety, all pavement, driveways, curbs, gutters, sidewalks, and lawn strips shall be edged when necessary to prevent encroachment from the adjacent grassed areas or ground cover. (Ord. 70-2018. Passed 1-14-19.)

553.02 DECLARATION OF NUISANCES.

The City has hereby determined that the following are public nuisances subject to abatement by the Superintendent of Permits and Inspections as set forth herein; the presence of weeds, noxious weeds and rank vegetation on any property within the City after the first day of April. (Ord. 53-07. Passed 5-29-07.)

553.03 DEFINITIONS.

(a) "Weeds", include Bittersweet (Nightshade), Buckhorn, Thistles, Curley Dock, Corn Cockle, Golden Rod, Iron Weed, Horse Nettle, Johnsongrass, Milkweed, Oxeye Daisy, Poison Hemlock, Poison Ivy, Poison Oak, Quackgrass, Queen Anne's Lace, Ragweed, Wild Onion, Wild Mustard, Wild Parships, Prickly Lettuce, Stinging Nettle, and other plants capable of causing skin reactions upon contact or producing severe allergic respiratory reactions.

(b) "Noxious weeds" means those plants defined as "Prohibited Noxious Weeds" in Section 901-5-37-01 of the Ohio Administrative Code and any of the following Golden Rod, Poison Hemlock, Poison Ivy, Poison Oak, Ragweed, Stinging Nettle, and other plants capable of causing skin reactions upon contact or producing severe respiratory reactions.

(c) "Rank vegetation" is any growth of weeds or grass reaching a height of eight inches or more on improved property or twelve inches or more upon unimproved property.

(d) "Hazardous trees, shrubs and plants" means any such growth upon, overhanging or infringing upon a height of eight feet vertical necessary for pedestrians on public sidewalks and fourteen feet vertical clearance for vehicular traffic upon public roadways or which endangers pedestrians or vehicles due to damaged, decayed or broken portions of such growth; or obstructs the view at intersections of vehicular traffic.

(e) "Improved property" means any property that has constructed upon it, or in proximity to it, any building or similar structure used or intended to be used as the residence or domicile of persons or as a place of business where persons are present during working hours or any property in a residential subdivision to which is extended any improvement required by the Subdivision Regulations.

(f) "Public nuisance" means vegetation which creates or promotes human health problems or constitutes a hazard to public safety due to obstructed paths of pedestrian and vehicular travel, obstructed views or falling portion of said vegetation.
(Ord. 53-07. Passed 5-29-07.)

553.04 ANNUAL NOTICE BY PUBLICATION.

The Director of Administration shall publish in one newspaper of local circulation on or about the first day of April each year notice of the City's determination that noxious weeds and rank vegetation are public nuisances. The notice shall further demand that all owners of improved property within the City remove all noxious weeds and regularly cut rank vegetation to a height of less than eight inches on improved property and twelve inches on unimproved property.
(Ord. 53-07. Passed 5-29-07.)

- (2) Costs for large taps are based on six hours labor. If there is extra time involved, there is an extra cost of \$95.00 per hour inside the City and \$115.00 per hour outside the City.
- (3) The contractor shall do the road opening and road repair on all taps and is responsible for all digging and backfilling on taps.
- (4) The contractor shall be responsible for the cost of all material and labor and other costs associated with water service from the water main to the meter. The City shall tap the water main.
(Ord. 40-13. Passed 6-23-14.)

935.03 EXTENDING WATER LINES TO FARTHEST POINTS.

The regulations of the Board of Public Affairs are hereby approved requiring property owners requesting the Board or Council to extend water lines to their properties, to extend the line to the farthest point of their lot line from the point of connection.
(Res. 478. Passed 5-11-59.)

935.04 MINIMUM COVERAGE DEPTH FOR WATER LINES.

All new installation of water lines, lateral and main lines, shall be installed at a minimum coverage depth of four feet, for residential, commercial, industrial properties and all other users. The Water Division shall inspect all installations before final approval is granted for every new installation. (Ord. 2264. Passed 8-26-63.)

935.05 SPECIAL WATER LINES CONNECTIONS PERMITTED.

The Director of Administration is authorized to permit individual connections onto the twelve-inch water line running from a point near the pump station on Easton Street in Plain Township to a tract of land owned by Walsh College located in Plain Township, in accordance with existing water line regulations. (Ord. 2491. Passed 7-11-66.)

935.06 REPAIRING FROZEN WATER LINES.

The cost of thawing or repair of any frozen water lines from the curb line to any buildings shall be at the expense of the owner or owners of the buildings.
(Ord. 2264. Passed 8-26-63.)

935.07 USE OF WATER FROM FIRE HYDRANTS.

(a) No person except an authorized agent of the Water Department or the North Canton Fire Department or a person with a special permit issued by the Director of Administration shall disturb or tamper with any fire hydrant or any part thereof or take any water from hydrants under any circumstances. This section applies to all hydrants connected to the North Canton water supply system.

(b) Installation of a meter and backflow device for all bulk water customers using water from a City hydrant, ineter fees and refundable equipment damage deposit can be found under the provisions of Section 937.05 Bulk Water Charge.
(Ord. 39-13. Passed 6-24-13.)

935.08 SALE OF WATER OR SANITARY SEWER SERVICE OUTSIDE CITY BOUNDARIES.

(a) All applications for water or sewer service for locations outside City boundaries require the Water Board and chair of the Water, Sewer and Rubbish Committee's approval.

(b) The Water Board and chair of the Water, Sewer and Rubbish Committee shall evaluate each application, and while considering foremost the City's best interest, they may:

- (1) Reduce or waive the cost to place water and sanitary sewer lines, associated costs, and tap in fees;
- (2) Determine the applicability of inside or outside water rates;
- (3) Determine the necessity of an agreement between the City and applicant whereby the applicant shall, upon request, promptly sign a recordable annexation petition, creating a covenant running with the land and enforceable against all successors and assigns; and
- (4) Evaluate and approve or deny other applicable and negotiable considerations, that in their sole discretion, are in the City's best interest.

(c) Unless a separate, binding agreement is currently in place, all locations outside City boundaries presently receiving City water or sewer service, shall comply with the provisions of this ordinance. (Ord. 88-2017. Passed 10-23-17.)

935.09 USE OF WATER OUTSIDE RESIDENTIAL PREMISES.

(a) The following policy regulating the use of water outside the premises for all residents on the North Canton Water System, in the event it becomes necessary for the Mayor to declare a mandatory conservation period, is hereby established:

Residents with odd numbered addresses shall be permitted to use water outside the premises on Tuesday, Thursday and Saturday from 6:00 a.m. to 9:00 a.m. and 6:00 p.m. to 11:00 p.m.

Residents with even numbered addresses shall be permitted to use water outside the premises on Wednesday, Friday and Sunday from 6:00 a.m. to 9:00 a.m. and 6:00 p.m. to 11:00 p.m.

No resident on the North Canton Water System shall be permitted to use water outside the premises on Monday.

(b) When the Mayor declares a mandatory conservation period, the following penalties shall be in effect for each separate violation of this Conservation Period. Each day shall constitute a separate offense.

Improper Watering During Mandatory Conservation Period.

First Offense: written warning, sent certified mail (if unclaimed or refused, sent regular mail).

Second Offense: Excess use fee of one hundred dollars (\$100.00), must be paid within three days (or first working day if third day falls on a weekend or holiday).

Third and Subsequent Offenses: Excess use fee of two hundred fifty dollars (\$250.00) for the third offense and doubling for each subsequent offense, must be paid within three days (or first working day if third day falls on a weekend or holiday).

Offenses are per calendar year but shall be considered a separate violation for each day a violation occurs.

(c) There shall be established a committee that shall have the authority to waive the excess use fee in instances where the water use was beyond the control of the home owner. The committee shall be made up of the Director of Administration, Director of Finance and Chief Operator - Water Treatment Plant. (Ord. 44-2000. Passed 5-22-00.)

Premises Located Inside Corporate Limits of the City

| <u>Size of Meter</u> | <u>Minimum Monthly Consumption in Gallons</u> |
|----------------------|---|
| 5/8 inch | 2,000 |
| 1 inch | 8,000 |
| 1 ½ inch | 17,000 |
| 2 inch | 25,000 |
| 3 inch | 33,000 |
| 4 inch | 50,000 |
| 6 inch | 75,000 |
| 8 inch | 125,000 |
| 10 inch | 210,000 |
| 12 inch | 375,000 |

Premises Located Outside Corporate Limits of the City

| <u>Size of Meter</u> | <u>Minimum Monthly Consumption in Gallons</u> |
|----------------------|---|
| 5/8 inch | 3,000 |
| 1 inch | 8,000 |
| 1 ½ inch | 17,000 |
| 2 inch | 25,000 |
| 3 inch | 33,000 |
| 4 inch | 50,000 |
| 6 inch | 75,000 |
| 8 inch | 125,000 |
| 10 inch | 210,000 |
| 12 inch | 375,000 |

(Ord. 19-13. Passed 3-25-13.)

(f) In respect to commercial customers having two or more locations within the North Canton water service area, if such customer can quarterly provide to the satisfaction of the Director of Finance on forms supplied by the City of North Canton for the purpose, that:

- (1) Sixty-five (65%) percent or more of the employees of the customer employed within the North Canton water service area are employed within the corporate limits of the City of North Canton, and;
- (2) Sixty-five (65%) percent or more of the payroll expense of the customer attributable to and paid to employees employed within the North Canton water service area is attributable to and paid to employees employed within the corporate limits of the City of North Canton, then all locations of said customer located outside the corporate limits of the City of North Canton, but located within the North Canton water service area shall be entitled to receive a forty (40%) percent reduction in their net monthly water billing for those facilities located outside the corporate limits of said City, provided that the bill is paid within fifteen (15) days after it is rendered.
(Ord. 20-11. Passed 2-28-11.)

937.02 METER READING AND BILLING.

(a) Meters shall be read and billed monthly or quarterly at the option of the City.

(b) All bills for current services together with any additional charges from whatever source, shall be increased by five (5%) percent and the amount so increased shall be the gross bill. If the bill is paid within 15 days after it is rendered, a discount shall be issued and the net bill consisting of all the foregoing charges without the five (5%) percent increase shall be accepted as payment in full. (Ord. 156-04. Passed 12-13-04.)

937.03 CHARGES MADE A LIEN AGAINST PROPERTY.

(a) That each water charge levied is hereby made a lien upon the premises charged therewith. If the Director of Finance determines that a transfer of property is about to occur and the water rents for said property are thirty days or more delinquent, the Director of Finance shall certify said delinquent amount together with penalties to be placed upon the real estate tax list and duplicate to be collected according to law. If the Director of Finance determines the water charges are delinquent for more than thirty days for a property, the Director of Finance's intent to certify said delinquency to be served upon the owner of the property thirty days prior to certification. If the water charges remain delinquent at the conclusion of thirty days, the Director of Finance may certify said delinquent charges to the County Auditor to be placed upon the real estate list and duplicate to be collected according to law. Said water charges may be certified to the Auditor only if the service was provided pursuant to a service contract with the owner of the property.

(b) In the event of nonpayment as aforesaid, or for non-compliance with the rules, regulations, or terms and conditions of Chapter 937, the City shall also have the right to discontinue service to such premises supplied by the City waterworks system until such unpaid water charges have been fully paid or compliance has been certified.

(c) Failure on the part of any property owner or the occupant of any property which is connected to the City's waterworks system to fully and faithfully comply with all the terms and provisions hereof and any and all rules and regulations which are now or may hereafter be made effective concerning the use of the City's waterworks system, shall, at the option of the City, terminate the right to continue such connection and to make sure of the City's waterworks system, and upon receipt of delinquent notice from the City, through the Director of Finance, the owner and occupant of the property specified in said delinquent notice shall discontinue the use of the waterworks system of the City and shall sever, at their own cost and expense, the physical connection from said property to the waterworks system.

Upon failure to do so, the City shall have the right, through its duly authorized officers and employees, to sever the connection into the waterworks system of the City from the property in question, and such connection shall not thereafter be reestablished, except in accordance with the terms of this and all rules and regulations then in effect and upon payment of all fees and charges, both present and delinquent, including any disconnection costs.

(d) In the event of any dispute as to charges or any dispute as failure to comply with rules and regulations concerning the use of the City's waterworks system shall upon written request by the party aggrieved be referred to a Board consisting of the Director of Law, Director of Finance and Director of Administration for review. Said Board shall hear said dispute within thirty days receipt of said notice and shall make a written decision to the party aggrieved within a reasonable time thereafter. (Ord. 53-2019. Passed 7-8-19.)

937.04 WATER TURN ON CHARGE.

(a) Whenever water service has been turned off for non-payment or non-compliance with any of the terms and conditions or rules and regulations of Chapter 937, there shall be a charge of one hundred dollars (\$100.00) to be paid before the water service will be turned on during City Hall business hours.

(b) Whenever water service has been turned off for non-payment or non-compliance with any of the terms and conditions or rules and regulations of Chapter 937, the past due amount, in addition to applicable turn on charge, shall be paid in full before water service shall be turned on. (Ord. 53-2019. Passed 7-8-19.)

937.05 BULK WATER CHARGE.

(a) Bulk or construction water may be sold only with the consent and approval of the Director of Administration and at the current rate, as may be amended from time to time.

(b) All bulk water purchases require a meter installation to measure the amount of water purchased together with a backflow prevention device to protect the City of North Canton's water system. The equipment rental fee for the meter and backflow prevention device, which includes installation and removal, is \$100.00, together with a \$1,250.00 equipment security deposit, which shall be returned if the equipment is returned timely without damage beyond normal wear and tear and has not been removed or altered by other than a City employee or its contractor.

(c) The bulk water purchaser is responsible to protect the meter and backflow prevention device from harm until it is removed by a City employee or its contractor. If said equipment is removed or altered by someone other than a City employee or its contractor, the bulk water purchaser shall be wholly responsible for the resulting damages to the equipment and City water supply, which may exceed the amount of the security deposit.

(d) Prior to purchasing the bulk water, the purchaser must sign an agreement to pursue no claims or actions of any kind against the City that result from the purchaser's defective equipment, construction, negligence, or intentional acts, in conjunction the purchase and use of the bulk water, and to hold the City harmless, and to defend and indemnify it against all forms of liability and expense for injury, losses, harm, or damages resulting from the same. (Ord. 38-13. Passed 6-24-13.)

937.06 COMMERCIAL FIRE HYDRANT CHARGE ON PRIVATE PROPERTY.

In respect to commercial establishments having fire hydrants located on private property connected to the North Canton water system and not being regularly billed for water consumption on their premises, said establishments shall pay twenty-four dollars (\$24.00) per month for each hydrant. (Ord. 20-11. Passed 2-28-11.)

937.07 METER REGULATIONS.

- (a) All new services shall be one inch (1") or larger.
- (b) All new installations for service shall be to the specifications on file with the Director of Administration.
- (c) All new tap-in installations shall be fees and meter cost plus labor, equipment and material cost inside the City limits and cost plus one-half for installation outside the City limits.
- (d) Owners shall deposit the amount of estimated cost of meter and tap when permit is issued, unless the following is authorized by the Director of Administration and Director of Finance. A payment plan may be established for the connection and tap-in fees for residential single-family owner-occupied premises connecting to preexisting waterlines of the water system of the City of North Canton, as provided at Section 937.02 of the Codified Ordinances.
- (e) All existing water users, either business or residential, connected to the North Canton water distribution system, shall be maintained to the specifications on file with the Director of Administration.
- (f) For all new installations, a separate meter for measuring water consumption shall be installed for each dwelling or business unit before water shall be furnished thereto except where two or more dwelling units, or two or more business units, located in one building, under a common roof, having common ownership, and the common owner thereof applies for and contracts to pay for the total water consumed thereto. Otherwise, a separate water line, which is connected to a separate shutoff valve, and a separate meter, shall be required for each dwelling unit or business unit. (Ord. 53-2019. Passed 7-8-19.)

937.08 WATER TURN ON.

- (a) All property owners or their designated agent shall be required to execute an application to the City of North Canton for water and/or sewer service to premises owned by the applicant and thereby agree to pay all rentals and other charges for service at the due dates and to conform to all rules and regulations of the City of North Canton now or hereafter in force, pertaining to such water and/or sewer service.

CHAPTER 1151
Signs

| | |
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| <p>1151.01 Purposes.</p> <p>1151.02 Classification of signs.</p> <p>1151.03 Computations.</p> <p>1151.04 Maximum sign area permitted.</p> <p>1151.05 Schedule of maximum sign area.</p> <p>1151.06 Bonus sign area for business or institution identification signs attached to buildings.</p> <p>1151.07 Regulations for freestanding signs.</p> <p>1151.08 Maximum height of freestanding signs.</p> <p>1151.09 Supplemental regulations for temporary signs.</p> <p>1151.10 Billboards.</p> | <p>1151.11 Signs exempt from regulation.</p> <p>1151.12 Prohibited signs.</p> <p>1151.13 Criteria for the design and construction of signs.</p> <p>1151.14 Maintenance.</p> <p>1151.15 Administration procedures.</p> <p>1151.16 Regulations for nonconforming signs.</p> <p>1151.17 Inspection upon completion.</p> <p>1151.18 Sign contractor's license.</p> <p>1151.19 Indemnification and insurance.</p> <p>1151.20 Violations and penalties.</p> |
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1151.01 PURPOSES.

In the interest of promoting the general health, safety and welfare of the residents of the City, these regulations are herein established to provide for the use, location and size of signs in a manner that ensures that signs are in harmony with the character of the associated use and surrounding area. More specifically, the purpose of these regulations is to:

- (a) Ensure that signs are consistent with the community's development objectives, thereby maintaining the community's heritage.
- (b) Promote and maintain attractive, high value residential, retail, institutional, commercial and industrial districts, and preserve the scenic and natural beauty of designated areas.
- (c) Provide reasonable, yet appropriate, conditions for identifying institutions, businesses, and commercial and industrial establishments.

- (d) Ensure that signs are located and designed to maintain a safe and orderly pedestrian and vehicular environment.
- (e) Provide review procedures that enable the City to comprehensively evaluate the appropriateness of a sign to the site, building and surroundings.
- (f) Eliminate any confusion or hazardous conflict between identification signs and traffic control signs and devices.
- (g) Recognize the commercial communication requirements of all sectors of the business community.
- (h) Guarantee equal treatment under the law through accurate record keeping and consistent enforcement.
- (i) Provide the businesses and institutions with equitable sign standards, based on the values of fair competition and aesthetic standards acceptable to the community.
- (j) Prohibit all signs not expressly permitted by this Chapter.

In establishing these purposes, the City has determined no sign shall be permitted as a main or accessory use except in accordance with the provisions of this ordinance. Any sign that does not conform to the regulations of this Resolution, or any subsequent amendment thereto, is a public nuisance and, as such, must be abated. Nonconforming signs are unduly distracting to motorists and pedestrians, and thereby create a traffic hazard and reduce the effectiveness of signs needed to direct the public. The regulations contained in this Chapter are the minimum regulations necessary to abate the nuisance and to achieve the stated purpose of this Chapter.
(Ord. 50-03. Passed 5-12-03; Ord. 58-2018. Passed 10-29-18.)

1151.02 CLASSIFICATION OF SIGNS.

For the purposes of these regulations, a sign shall include any device that is intended to announce, direct or advertise, and may be represented by words or letters, figures, symbols or characterizations, or other insignia, or devices. Signs shall further be classified by physical design or structure, and function or purpose based on the following.

- (a) Physical Characteristics.
 - (1) Abandoned Sign: A sign that no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found.
 - (2) Animated Sign: Any sign that uses movement or change of lighting to depict action or to create a special affect or scene.
 - (3) Banner Sign: Any sign of lightweight fabric or similar material with no enclosing framework that is mounted to a building at one or more edges. National flags, state or the official flag of any institution or business shall not be considered banners.
 - (4) Building Marker: Letters, words, or insignia cut into the building surface, or otherwise permanently mounted on the building, at the time the building was constructed to convey a memorial, the name of the building, address or date of construction, or similar message.
 - (5) Canopy or Awning Sign: A sign painted on, printed on or attached to the soffit or fascia of an awning, canopy, or other fabric, plastic, or structural protective cover over a door entrance or window.

- (6) Changeable Copy Sign: A sign such as a bulletin board or announcement board, where the message or graphics is not permanently affixed to the structure, framing or background and may be periodically replaced or covered over manually or by electronic or mechanical devices.
 - (7) Face of Sign: The area of a sign on which the copy is placed.
 - (8) Flashing Sign: A sign that contains an intermittent or sequential flashing light source used primarily to attract attention but does not include changeable copy signs or animated signs.
 - (9) Freestanding Sign: A sign that is supported from the ground or a structure other than a building.
 - (10) Festoons: A string of ribbons, tinsel, small flags, or pinwheels.
 - (11) Illuminated Sign: A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.
 - (12) Marquee Sign: A sign attached to or supported by a permanent roof-like structure or canopy of rigid materials supported by and extending from the façade of a building.
 - (13) Nonconforming Sign: A sign that was erected legally but which does not comply with subsequently enacted sign restrictions and regulations.
 - (14) Projecting Sign: A sign, other than a flat wall sign, that is attached to and projects from a building wall or other structure not specifically designed to support the sign.
 - (15) Roof Sign: A sign erected on or over the roof of a building.
 - (16) Rotating Sign: A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner.
 - (17) Under-Canopy Sign: A sign suspended beneath a canopy, ceiling, roof or marquee intended to be viewed by pedestrians from the sidewalk beneath the canopy, ceiling, roof or marquee.
 - (18) Wall Sign: A sign erected parallel to, or painted on the surface or on the outside wall of any building, and not extending more than 12 inches therefrom, and which does not project above the roof line or beyond the corner of the building;
 - (19) Window Sign: A sign on the inside of a building affixed to, or near a window for the purpose of being visible to and read from the outside of the building.
- (b) Function.
- (1) Billboard Sign: An outdoor sign advertising an establishment, merchandise, service, or entertainment that is not sold, produced, manufactured or furnished at the property on which said sign is located.
 - (2) Directional Sign: A permanent sign located on private property, at or near the public right-of-way, directing or guiding traffic and parking from the street onto private property.
 - (3) Identification Sign: A sign intended to identify the principal use of a lot, development, building or building unit according to the following:
 - A. Business Identification Sign: A sign intended to announce or promote the use, activity, service or business on the premises of any business, commercial or industrial establishment, and which may include a directory of occupants.

- B. **Institution Identification Sign:** A sign displaying the name and/or organization occupying the premises of a public or quasi-public use such as but not limited to: churches and other places of worship, hospitals, public or semi-public recreational facilities, schools and/or a sign intended to announce or promote the use, activity, service or business on the premises by any institutional establishment.
- C. **Development Identification Sign:** A freestanding sign identifying the name and address of a completed residential subdivision or multi-family development.
- (4) **Instructional Sign:** A sign that has a purpose secondary to the use on the lot that is intended to instruct employees, customers or users as to specific parking requirements, the location or regulations pertaining to specific activities on the site or in the building, specific services offered or methods of payments accepted.
- (5) **Name Plate:** A sign indicating only the name and address of the person, business, profession or activity occupying the lot, building(s) or part of the operation or maintenance of any equipment which is placed on the building or site.
- (6) **Project Construction Sign:** A temporary sign identifying the name of a subdivision, building or public works project or facility or an architect, contractor, subcontractor, and/or material supplier participating during the time of construction.
- (7) **Public Regulation and Information:** A sign erected by a public authority, utility, public service organization or private industry upon the public right-of-way or, when required by law, on private property and which is intended to control traffic, direct, identify or inform the public or provide needed public service as determined by the rules and regulations of governmental agencies or through public policy. Such signs include "No Parking Fire Lane".
- (8) **Temporary Sign:** A sign that is designed to be used only temporarily and is not permanently, or intended to be permanently, attached to a building, structure or on the ground.
- (Ord. 50-03. Pssed 5-12-03; Ord. 58-18. Passed 10-29-18.)

1151.03 COMPUTATIONS.

The following principals shall control the computation of sign area and sign height:

- (a) **Determining Sign Area or Dimension.**
- (1) For a sign that is framed, outlined, painted or otherwise prepared and intended to provide a background for a sign display, the area or dimensions shall include the entire portion within such background or frame.
- (2) For a sign comprised of individual letters, figures or elements on a wall or similar surface of the building or structure, or an irregular shaped freestanding sign, the area of the sign shall encompass a regular, or a combination of regular geometric shapes which form or approximate the perimeter of all the elements in the display. When separate elements are organized to form a single sign, but the elements are separated by open space, the area shall be calculated by determining the geometric form, or combination of forms, which comprise all the display areas, including the space between the elements.

- (3) The sign area shall include the frame but shall not include the pole or other structural support unless such pole or structural support is illuminated or otherwise so designated to constitute a display device.
- (4) The area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 72 inches apart at their narrowest, the sign area shall be computed by the measurement of one of the faces.
- (5) In the event there is a dispute in determining the sign area or any sign dimension, the Superintendent of Permits and Inspections shall have the final responsibility for making such determination.
- (b) Determining Sign Height. The height of a sign shall be measured from the base of the sign or supportive structure at its point of attachment to the ground to the top most element of the sign. A freestanding sign on a man-made base, including a graded earth mound, shall be measured from the grade of the nearest street, drive or parking area.
- (c) Determining Clearance of a Sign: The smallest vertical distance between the grade of the adjacent street or street curb and the lowest point of any sign, including framework and embellishments, extending over that grade.
- (d) Determining Building Frontage and Building Unit. The length of the building that faces the principal street or the length of the wall of the building that contains the main entrance to the uses therein shall be considered the building frontage.
 - (1) The building frontage shall be measured along the front wall between the exterior faces of the exterior sidewalls.
 - (2) In the case of an irregular wall surface, a straight line extended along such wall surface shall be used to measure the length.
 - (3) For lots fronting on two or more streets, or where the building has its main entrance on a wall other than the wall that faces the street, the building frontage shall be calculated separately for each building wall facing a street or having a main entrance. The sign area that is located on a particular building wall shall not exceed the area permitted for such building wall.
 - (4) For multi-tenant buildings, the portion of a building that is owned or leased by a single tenant shall be considered a building unit. The building frontage for a building unit shall be measured from the centerline of the party walls defining the building unit.

(Ord. 50-03. Passed 5-12-03; Ord. 58-18. Passed 10-29-18.)

1151.04 MAXIMUM SIGN AREA PERMITTED.

Signs as permitted in the respective zoning districts shall conform to the maximum area limitations set forth in Schedule 1151.05, in compliance with the regulations set forth below.

- (a) Business/Institution Identification Signs. The area of business identification signs shall comply with the following:
 - (1) Signs Attached to Buildings. The maximum permitted area for signs attached to a building shall comply with the following:

- A. The total area of all identification signs shall not exceed the area determined by the formula set forth in Schedule 1151.05.
1. This maximum area shall be the sum of the areas of all identification signs attached to the building including projecting signs, marquee signs, awning signs, and canopy signs, except as otherwise specified, and shall include the area of instructional signs unless the *Superintendent of Permits determines that such instructional signs are exempt pursuant to subsection (b) below.
 2. Notwithstanding the above standard, each building shall be permitted a minimum of 30 square feet of identification signs attached to the building.
- B. Certain types of signs shall be further limited in size according to Schedule 1151.05.
- C. Under-canopy signs shall comply with the maximum area set forth in Schedule 1151.05; the area of which shall not be included in the sum total set forth in subsection A.1. above.
- (2) Freestanding Identification Signs. The area of freestanding business/institution identification signs shall comply with the maximum permitted area specified in Schedule 1151.05 and the regulations of sections 1151.07 and 1151.08.
 - (3) Window Signs. The maximum area for permanent identification signs placed in or painted on a window shall be the percentage of the window area specified in Schedule 1151.05.
- (b) Instructional Signs. The area of instructional signs that are clearly intended for instructional purposes, as determined by the Superintendent of Permits, shall not be included in the sum of the area of identification signs, provided such signs comply with the following:
- (1) The sign is not larger than necessary to serve the intended instructional purpose; and
 - (2) The sign is not in a location and does not possess design characteristics that constitute or serve the purposes of an identification sign.
- (c) Architectural Features. Architectural features that are either part of the building or part of a freestanding structure are not considered signs and are thus exempt from these regulations. An architectural feature is any construction attending to, but not an integral part of the sign, and which may consist of landscape or building or structural forms complementing the site in general.
(Ord. 58-2018. Passed 10-29-18.)

1151.05 SCHEDULE OF MAXIMUM SIGN AREA.

The maximum area of freestanding signs, when permitted, shall conform to the standards set forth in Schedule 1151.05 below.

Schedule 1151.05
Maximum Area of Freestanding Signs

| Sign Type | Single-Family Districts | Multi-Family Districts | Park and Institutional, & Office Building Districts | Mixed Use Overlay and Main Street Districts | General Business and Industrial Districts |
|--|-------------------------|------------------------|---|---|---|
| (1) Nameplate | 2 sq. ft. | 2 sq. ft. | 2 sq. ft. | 2 sq. ft. | 2 sq. ft. |
| (2) Residential Development Identification Signs | 16 sq. ft. (a) | 16 sq. ft. (a) | 16 sq. ft. (a) | 16 sq. ft. (a) | 16 sq. ft. (a) |
| (3) Institution Identification Signs | | | | | |
| A. Attached to building | 32 sq ft | 32 sq ft | 1.5 sq ft/foot of building front (b) | 1.5 sq ft/foot of building front (b) | 1.5 sq ft/foot of building front (b) |
| B. Freestanding sign | 32 sq. ft. | 32 sq. ft. | 40 sq ft | 40 sq ft | 40 sq ft |
| C. Marquee signs | NP | NP | 1 sq ft/foot of marquee face | 1 sq ft/foot of marquee face | 1 sq ft/foot of marquee face |
| D. Projecting signs | NP | NP | NP | 12 sq ft | NP |
| E. Freestanding signs | NP | NP | 40 feet | 40 feet | 40 feet (c) |
| F. Window Sign | NP | NP | 25% of window area | 25% of window area | 25% of window area |
| G. Under Canopy sign | NP | NP | 8 sq. ft. | 8 sq. ft. | 8 sq. ft. |
| (4) Business Identification Signs | | | | | |
| A. Attached to building | NP | NP | 1.5 sq. ft./foot of building front (b) | 1.5 sq. ft./foot of building front (b) | 1.5 sq. ft./foot of building front (b) |
| B. Awning or canopy sign | NP | NP | 50% of awning or canopy face | 50% of awning or canopy face | 50% of awning or canopy face |
| C. Marquee signs | NP | NP | 1 sq.ft./foot of marquee face | 1 sq.ft./foot of marquee face | 1 sq.ft./foot of marquee face |
| D. Projecting signs | NP | NP | NP | 12 sq. ft. | NP |
| E. Freestanding sign | NP | NP | 40 feet | 40 feet | 40 feet (c) |
| F. Window sign | NP | NP | 25% of window area | 25% of window area | 25% of window area |
| G. Under-canopy Sign | NP | NP | 8 sq. ft. | 8 sq. ft. | 8 sq. ft. |
| (5) Directional Sign | NP | 4 sq. ft. | 4 sq. ft. | 4 sq. ft. | 4 sq. ft. |

| Sign Type | Single-Family Districts | Multi-Family Districts | Park and Institutional, & Office Building Districts | Mixed Use Overlay and Main Street Districts | General Business and Industrial Districts |
|------------------------------|-------------------------|------------------------|---|---|---|
| (6) Instructional Signs | (d) | (d) | (d) | (d) | (d) |
| (7) Temporary Signs | | | | | |
| A. Project construction sign | 24 sq. ft. (e) | 24 sq. ft. (e) | 32 sq. ft. (e) | 32 sq. ft. (e) | 32 sq. ft. (e) |
| B. Window signs | 6 sq. ft. (f) | 6 sq. ft. (f) | 25% of window area(g) | 25% of window area(g) | 25% of window area(g) |
| C. Other signs | 16 sq. ft. (f) | 16 sq. ft. (f) | 32 sq. ft. (h) | 32 sq. ft. (h) | 32 sq. ft. (h) |

Notes For Schedule 1151.05:

- (a) One per street entrance.
- (b) Per linear foot of building frontage, see also Section 1151.03 and 1151.04(a).
- (c) Except that for lots with frontage on Whipple Avenue, the maximum area permitted shall be 200 sq. ft. of sign area.
- (d) Considered an identification sign unless exempt pursuant to Section 1151.04(b).
- (e) See Section 1151.09(a) for project construction signs.
- (f) See Section 1151.09(b) for temporary signs in residential districts.
- (g) See Section 1151.09(c) for temporary window signs.
- (h) See Section 1151.09(c) for other temporary signs.

NP - Not permitted

(Ord. 58-2018. Passed 10-29-18.)

1151.06 BONUS SIGN AREA FOR BUSINESS OR INSTITUTION IDENTIFICATION SIGNS ATTACHED TO BUILDINGS.

Additional area for business or institution identification signs attached to buildings shall be permitted for lots in institution, business, mixed-use overlay, and industrial districts in compliance with the following:

- (a) Corner Lots and Side and Rear Entrances. The maximum allowable area for identification signs attached to a building shall be increased beyond the allowable area set forth in Schedule 1151.05 in compliance with the following:
 - (1) Additional area shall be permitted when a building has a secondary frontage because of one or more of the following characteristics.
 - A. The building is located on a corner lot and faces both the primary street and the secondary street;
 - B. The building has a customer entrance facing a parking lot and the customer entrance does not face the primary street.

- (2) The sign area for each secondary building frontage shall be 50 percent of the area computed using the formula set forth in Schedule 1151.05, based on the length of the secondary building frontage provided that:
- A. The additional sign area is utilized only on the secondary building frontage; and
 - B. The sign area permitted on the primary building frontage may be redistributed along the secondary building frontage(s) provided that the total sign area facing the secondary street(s) or parking lot does not exceed the formula set forth in Schedule 1151.05 based on the length of the building frontage.
- (b) Large Building Setbacks. The maximum allowable area for identification wall signs may be increased by one-half square foot of sign area for each foot of building frontage when the principal building is set back more than 200 feet from the primary street on which the building is located.
(Ord. 58-2018. Passed 10-29-18.)

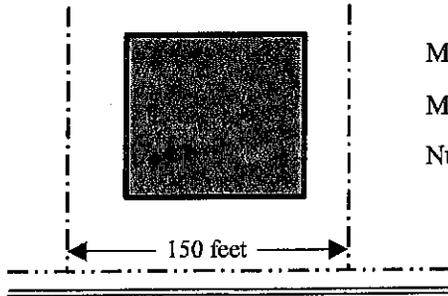
1151.07 REGULATIONS FOR FREESTANDING SIGNS.

Freestanding signs shall be permitted in compliance with the following regulations:

- (a) Freestanding Residential Development Identification Signs. A freestanding residential development identification sign shall be permitted for a residential development in compliance with the following requirements.
 - (1) Maximum Number of Freestanding Signs. A maximum of two sign faces shall be permitted per street entrance: either as a double-sided freestanding sign or as two single-sided signs either freestanding or mounted on a wall or other entrance feature.
 - (2) Minimum Setback from Street. Such signs shall be located no closer than 10 feet from the street right-of-way line, and shall be placed so as not to obstruct sight lines for vehicles or pedestrians.
 - (3) Minimum Setback from Side Lot Lines. Such signs shall be located no closer than 25 feet to a side lot line.
- (b) Freestanding Business and Institution Identification Signs. A freestanding business or institution identification sign shall comply with the following.
 - (1) Maximum Number of Freestanding Signs. One freestanding sign shall be permitted per project or development, except for facilities on corner lots pursuant to Section 1151.07(b)(4) and bonuses established for large lots pursuant to Section 1151.07(b)(5).
 - (2) Minimum Sign Setback from Street. Freestanding signs shall be located no closer than two feet from any vehicular public right-of-way in the Main Street District and a distance equal to the height of the sign in all other districts.
 - (3) Multi-Tenant Facilities. When a freestanding sign is erected on a site that has more than one tenant, it is the property owner's responsibility to determine the sign area devoted to identification of the development, building, anchor tenant, all tenants, or some combination thereof.

- (4) Additional Freestanding Sign and Sign Area for Corner Lots. One additional freestanding sign shall be permitted for a corner lot provided that:
- A. The total frontage of both streets is not less than 300 feet;
 - B. The area of each freestanding identification sign complies with Schedule 1151.05, and the total area of both freestanding signs shall not exceed 175 percent of the maximum area permitted for a single sign;
 - C. The second freestanding sign is clearly located to provide identification along the secondary street; and
 - D. The two signs may be aggregated into a single sign at the corner provided that the area of any freestanding sign face shall not exceed 70 square feet, except as otherwise permitted in subsection (5) below.
- (5) Additional Freestanding Sign and Sign Area for Large Lots. The area and number of freestanding signs on large lots may be increased according to the following:
- A. The allowable area of any freestanding sign face may be increased by 5 square feet of area for every 20 lineal feet of lot frontage or fraction thereof greater than 200 lineal feet. See also illustration 1151.07(b)(5)D for application.
 - B. The allowable area pursuant to this section may be distributed to one freestanding sign for each 250 feet of lot frontage or fraction thereof. See also illustration 1151.07(b)(5)D for application.
 - C. Notwithstanding any provision of this section, the area of any freestanding sign shall not exceed 70 square feet, except that freestanding signs located on lots with frontage on Whipple Avenue shall not exceed 200 square feet.
(Ord. 58-2018. Passed 10-29-18.)

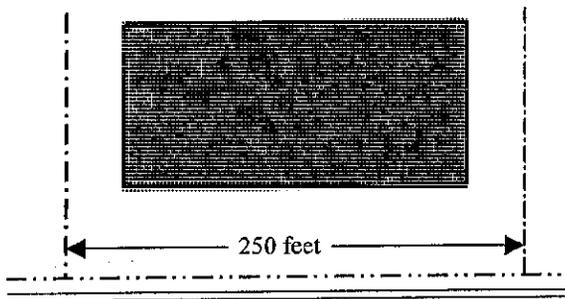
D. Illustration 1151.07(b)(5)D. Application of Additional Freestanding Signs and Sign Area for Large Lots.



Minimum frontage required = 150 ft.

Maximum freestanding sign area = 40 sq.ft.

Number of freestanding signs permitted = 1



Lot with 250 ft. of frontage

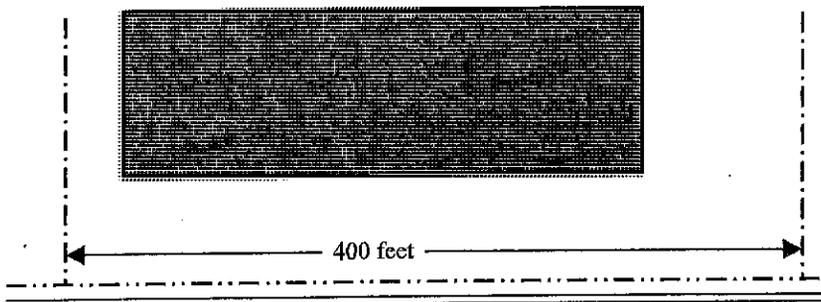
Maximum freestanding sign area = 55 sq.ft.

$$40 \text{ sq ft} + (5 \text{ sq ft} \times ((250 - 200)/20)) =$$

$$40 \text{ sq ft} + (5 \text{ sq ft} \times 50/20) \text{ Fractions are rounded up to next whole number} =$$

$$40 \text{ sq ft} + (5 \text{ sq ft} \times 3) = 40 \text{ sq ft} + 15 \text{ sq ft} = 55 \text{ sq ft.}$$

Number of freestanding signs permitted = 1



Lot with 400 feet of frontage

Maximum freestanding sign area = 90 sq.ft.

$$40 \text{ sq ft} + (5 \text{ sq ft} \times ((400 - 200)/20)) =$$

$$40 \text{ sq ft} + (5 \text{ sq ft} \times 200/20) =$$

$$40 \text{ sq ft} + (5 \text{ sq ft} \times 10) = 40 \text{ sq ft} + 50 \text{ sq ft} = 90 \text{ sq ft}$$

Number of freestanding signs permitted = 2

$$400\text{ft} / 250 \text{ ft} = 1.6 \text{ signs, rounded up to 2 signs}$$

- (c) Landscaping. Freestanding signs shall be erected in a landscaped setting and not on sidewalks, drives or in parking lots.

1151.08 MAXIMUM HEIGHT OF FREESTANDING SIGNS.

The maximum height of freestanding signs, when permitted, shall conform to the standards set forth in Schedule 1151.08 below.

Schedule 1151.08
Maximum Height of Freestanding Signs

| Sign Type | Single-Family Districts | Multi-Family Districts | Park and Institutional & Office Building Districts | Mixed Use Overlay and Main Street Districts | General Business and Industrial Districts |
|--|-------------------------|------------------------|--|---|---|
| (1) Residential Development Identification Signs | 6 feet | 6 feet | 6 feet | 6 feet | 6 feet |
| (2) Institution Identification Signs | 6 feet | 6 feet | 6 feet | 6 feet | 25 feet(a) |
| (3) Business Identification Signs | NP | NP | 6 feet | 6 feet | 25 feet(a) |
| (4) Directional Signs | NP | 3 feet | 3 feet | 3 feet | 3 feet |
| (5) Instructional Signs | (b) | (b) | (b) | (b) | (b) |
| (6) Temporary Signs | | | | | |
| A. Project construction signs | 6 feet | 6 feet | 6 feet | 6 feet | 8 feet |
| B. Other signs | 4 feet | 4 feet | 6 feet | 6 feet | 8 feet |

Notes To Schedule 1151.08:

NP = Not permitted.

(a) Except that for signs located on lots with frontage on Whipple Avenue, the maximum sign height shall be 35 feet.

(b) No height limit provided sign complies with 1151.04(b).

(Ord. 58-2018. Passed 10-29-18.)

1151.16 REGULATIONS FOR NONCONFORMING SIGNS.

(a) Maintenance of Nonconforming Signs. Nonconforming signs shall be maintained in good condition pursuant to Section 1151.14.

(b) Alteration and Removal of Nonconforming Signs.

- (1) Nonconforming signs shall be removed and any subsequent modification or replacement, excluding maintenance pursuant to Section 1151.14, shall conform to all requirements of this Chapter:
 - A. When more than 50 percent of the value of the sign has been destroyed or has been taken down; or
 - B. When the use which the nonconforming sign is accessory to is vacant for 90 consecutive days.
 - C. Except an existing free standing sign that is nonconforming only because of sign area surface or sign height, as determined in Section 1151.05 and Section 1151.08 respectively, may be modified or replaced, provided the modification or replacement improves conformity as to area by at least 30% and as to height by at least 20%.
- (2) A nonconforming sign shall not be altered, modified or reconstructed other than to comply with this Chapter except:
 - A. When the existing use has new ownership which results in a change in the name of the use or business on the property;
 - B. When the space is reoccupied by a similar use and the new occupant requires no external building or site renovation; or
 - C. An existing sign pursuant to this subsection may be changed by replacing a sign panel or by repainting a sign face only. Such alterations shall not require changes to the structure, framing or erection or relocation of the sign unless such changes conform to this Chapter. (Ord. 58-2018. Passed 10-29-18.)

1151.17 INSPECTION UPON COMPLETION.

(a) Any person installing, altering, or relocating a sign for which a permit has been issued shall notify the Superintendent of Permits and Inspection upon completion of the work. The Superintendent may require a final inspection, including an electrical inspection and inspection of footings on freestanding signs.

(b) The Superintendent of Permits and Inspection may require, upon issuance of a permit, that he/she be notified in writing for inspection prior to the installation of certain signs.

1151.18 SIGN CONTRACTOR'S LICENSE.

No person may engage in the business of erecting, altering, relocating, constructing, or maintaining signs requiring permits, without a valid contractor's license and all required state and federal licenses.

1151.19 INDEMNIFICATION AND INSURANCE.

(a) All persons involved in the maintenance, installation, alteration, or relocation of signs near or upon any public right-of-way or property shall agree to hold harmless and indemnify the City, its officers, agents, and employees, against any and all claims of negligence resulting from such work insofar as this Ordinance has not specifically directed the placement of a sign.

(b) All persons involved in the maintenance, installation, alteration, or relocation of signs shall maintain all required insurance and shall file with the state a satisfactory certificate of insurance to indemnify the state, county or city against any form of liability to a minimum of \$100,000.

1151.20 VIOLATIONS AND PENALTIES.

(a) It shall be the duty of the sign owner, sign erector, the owner of the business being identified or advertised and/or the owner of the property upon which the sign is to be placed to see that any sign that is erected, altered, modified or maintained is in compliance with all applicable provisions of these sign regulations. Failure to come into compliance after notice as specified in this Section shall be a violation of this Zoning Ordinance.

(b) The Superintendent of Permits and Inspection shall declare any violation a nuisance and order in writing the correction of all conditions that are found to be in violation of these regulations.

- (1) Where the sign regulations provide that a permit and, where applicable, the approval of the Superintendent of Permits are required prior to the erection of a sign, and no permit or approval has been obtained, violations shall be corrected within five days after the written order is issued or the sign in question shall be removed by the City.
- (2) Any violation involving temporary signs, except as outlined in Subsection (1) above, shall be corrected within five days after the written order is issued. If the permit holder, sign owner, property owner or sign provider fails to remove or alter the temporary sign within five days after such notice, such sign may be removed or altered by the City to comply with these regulations at the expense of the permit holder, the owner of the property upon which it is located, the sign owner or the sign provider. The Superintendent of Permits and Inspection may refuse to issue a permit to any permit holder, sign owner, property owner or sign provider who refuses to pay costs so assessed. The Superintendent of Permits and Inspection may cause any sign that is in immediate peril to persons or property to be removed summarily and without notice.
- (3) In the case of a sign that poses an immediate danger to the public health or safety, such sign shall be removed immediately upon notification of such pending danger or the sign in question shall be removed by the City.

(c) Any signs illegally posted in the public right-of-way may be removed immediately and without notice by the City.

(d) All other violations shall be subject to the standards and criteria set forth in Chapter 1191. (Ord. 2-04. Passed 2-9-04.)

TITLE FIVE - Administration

- Chap. 1171. Administrative Powers and Duties.
- Chap. 1173. Procedures for Zoning Certificates and Certificates of Occupancy.
- Chap. 1175. Development Plan Review.
- Chap. 1177. Conditional Use Permits and Similar Uses.
- Chap. 1179. Appeals and Variances.
- Chap. 1181. Amendments.
- Chap. 1191. Enforcement and Penalties.

**CHAPTER 1171
Administrative Powers and Duties**

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|----------------|--|----------------|---------------------------------|
| 1171.01 | Purpose. | 1171.04 | Zoning Board of Appeals. |
| 1171.02 | Superintendent of Permits and Inspection. | 1171.05 | City Council. |
| 1171.03 | Planning Commission. | 1171.06 | Schedule of fees. |

1171.01 PURPOSE.

This Chapter sets forth the powers and duties of the Superintendent of Permits and Inspection, Planning Commission, Zoning Board of Appeals, and City Council with respect to the administration of the provisions of this Ordinance.

1171.02 SUPERINTENDENT OF PERMITS AND INSPECTION.

For the purposes of this Zoning Ordinance, the Superintendent of Permits and Inspection shall have the following powers and duties under the direction of the Director of Administration.

- (a) Establishment. The Superintendent of Permits and Inspection shall act as the administrative officer for the purpose of effecting the proper administration of the Zoning Ordinance.
- (b) Powers and Duties. The Superintendent of Permits and Inspection shall have the following powers and duties:
 - (1) Enforce the provisions of this Ordinance and interpret the meaning and application of its provisions.
 - (2) Issue zoning certificates as provided by this Ordinance and keep a record of same with a notation of any special conditions involved.
 - (3) Issue certificates of occupancy as provided by this Ordinance and keep a record of same.
 - (4) Accept, review for completeness, and respond to questions regarding applications upon which the Superintendent of Permits and Inspection is authorized by the provisions of this Ordinance to review including amendments to the Ordinance, development plan review, conditional uses, variances, and appeals.
 - (5) Coordinate the City's administrative review of rezoning applications, development plan review and conditional use applications.
 - (6) Maintain any records required by this Ordinance including inspection documents, and records of all variances, amendments, conditional uses, and similar use determinations.
 - (7) Make such records available for the use of Council, the Planning Commission, the Zoning Board of Appeals, and the public.
 - (8) Conduct or cause the inspection of buildings and uses of land to determine compliance with this Ordinance.
 - (9) Determine the existence of any violations of this Ordinance and cause such notifications, revocation notices, stop orders, or tickets to be issued, or initiate such other administrative or legal action as needed, to address such violations.
 - (10) Maintain in current status the "Official Zone Map of the City of North Canton".
(Ord. 50-03. Passed 5-12-03; Ord. 36-2019. Passed 6-10-19.)

1171.03 PLANNING COMMISSION.

- (a) Establishment. The Planning Commission is established by Charter.
- (b) Composition. The Planning Commission consists of five (5) qualified electors of North Canton, all of who are appointed by the mayor. The Director of Administration and a member of Council, selected by Council, shall serve as nonvoting members of the Planning Commission in an advisory capacity and shall attend meetings.

**CHAPTER 1508
Key Lock Box Systems**

1508.01 Key lock box system required. 1508.99 Penalty.

1508.01 KEY LOCK BOX SYSTEM REQUIRED.

(a) The following structures shall be equipped with a key lock box at or near the main entrance or such other location required by the Fire Chief:

- (1) Commercial or industrial structures protected by an automatic fire alarm system or automatic suppression system, or such structures that are secured in a manner that restricts access during an emergency;
- (2) Multi-family residential structures that have restricted access through locked doors and have a common corridor for access to living units;
- (3) Governmental structures and nursing care facilities.

(b) All newly constructed structures subject to this section shall have the key lock box installed and operational prior to the issuance of an occupancy permit. All structures in existence on the effective date of this section and subject to this section shall have one year from the effective date of this section to have a key lock box installed and operational.

(c) The Fire Chief shall designate the type of key lock box system to be implemented within the City and shall have authority to require all structures to use the designated system.

(d) The owner or operator of a structure required to have a key lock box shall, upon installation of the key lock box, provide the Fire Department with the correct keys for entry into the building and necessary access therein, for placement in the key lock box.

(e) The Fire Chief shall be authorized to implement rules and regulations for the use of the key lock box system.

(f) Any person who owns or operates a structure subject to this section shall be subject to the penalties set for in Section 1508.99.
(Ord. 51-05. Passed 4-11-05.)

1508.99 PENALTY.

Violations of this Chapter shall be enforced according to the provisions of the Ohio Fire Code as described in Ohio's Administrative and Revised Codes.
(Ord. 64-2018. Passed 11-12-18.)